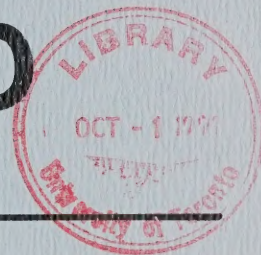


CA20N  
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-H26



# ENVIRONMENTAL ASSESSMENT BOARD



**VOLUME:** 327

**DATE:** Friday, September 13, 1991

**BEFORE:**

A. KOVEN Chairman

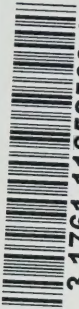
E. MARTEL Member

**FOR HEARING UPDATES CALL (COLLECT CALLS ACCEPTED) (416)963-1249**

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HEARING ON THE PROPOSAL BY THE MINISTRY OF  
NATURAL RESOURCES FOR A CLASS ENVIRONMENTAL  
ASSESSMENT FOR TIMBER MANAGEMENT ON CROWN  
LANDS IN ONTARIO

IN THE MATTER of the Environmental  
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental  
Assessment for Timber Management on Crown  
Lands in Ontario;

- and -

IN THE MATTER OF a Notice by the  
Honourable Jim Bradley, Minister of the  
Environment, requiring the Environmental  
Assessment Board to hold a hearing with  
respect to a Class Environmental  
Assessment (No. NR-AA-30) of an  
undertaking by the Ministry of Natural  
Resources for the activity of timber  
management on Crown Lands in Ontario.

-----  
Hearing held at the Red Oak Inn, Oak Room C,  
555 West Arthur Street, Thunder Bay, Ontario,  
on Friday, September 13th, 1991, commencing at  
8:30 a.m.

-----  
VOLUME 327

BEFORE:

MRS. ANNE KOVEN  
MR. ELIE MARTEL

Chairman  
Member





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MR. P.D. McCUTCHEON	GEORGE NIXON
MR. C. BRUNETTA	NORTHWESTERN ONTARIO TOURISM ASSOCIATION





I N D E X   O F   P R O C E E D I N G S

<u>Witness:</u>	<u>Page No.</u>
<u>PATRICK MacGUIRE,</u> <u>HAROLD MICHON,</u> <u>SIMMONS; Sworn</u>	57610
Direct Examination by Mr. Irwin	57613
Cross-Examination by Mr. Cassidy	57699
Cross-Examination by Mr. Freidin	57720
Re-Direct Examination by Mr. Irwin	57755





I N D E X   O F   E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
1925	Written witness statement number 2 entitled The Impacts of MNR's Timber Management Policies On the Aboriginal Peoples of Eastern Lake Nipigon.	57611
1926	Four-page excerpt from 1991-1993 Collective Agreement between Domtar Inc. and Local 2693 of the IWA.	57704
1927	Two page letter of understanding between Domtar Inc. and the lumber and saw mill workers' union dated April 15, 1986.	57706
1928	Answers to the interrogatories provided to the OFIA from the OMAA.	57710
1929	MNR News Release dated September the 18th, 1987 titled: Ministry of Natural Resources warns Ontario hunters not to eat moose kidneys and liver or deer kidneys.	57727
1930	Map titled: Herbicide Spray Blocks in Nipigon District.	57731
1931	Interrogatories from MNR in whole of panel No. 2, interrogatories 19, 22, 23.	57735
1932	Map depicting cuts in area of Foam Lake.	57749
1933	Letter dated December 29, 1988 from Art Currie, MNR District Manager, Nipigon District.	57752





I N D E X   O F   E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
1934(a)	Warren Mazurski's written witness statement.	57763
1934(b)	Bob Lavallee's written witness statement.	57763



1 ---Upon commencing at 8:35 a.m.

2 MADAM CHAIR: Good morning. Please be  
3 seated.

4 MR. IRWIN: Good morning. The panel is  
5 here but one of the panel member's wife is in the  
6 process of having a baby or going to -- so I think he's  
7 out in the -- I think the whole panel's with him.  
8 Could I just check and see --

9 MADAM CHAIR: Go ahead, Mr. Irwin.

10 MR. IRWIN: Good morning, Madam Chair.

11 MADAM CHAIR: Good marriage, Mr. Irwin.

12 MR. IRWIN: Mr. Martel.

13 This is Mr. Joe MacGuire Jr., and his  
14 wife is very close to having a baby and if he looks a  
15 little peaked there's reasons for it. Mr. Harold  
16 Michon and Mr. Stanley -- you have Mr. Michon and Mr.  
17 MacGuire's spellings and names in the witness  
18 statements, and Mr. Stanley Simmons, S-I-M-M-O-N-S.  
19 They are all Aborigines. They will be addressing  
20 witness statement number 2.

21 For a point of clarification of where  
22 we're going from here, we will be returning at some  
23 point and I'm be arranging that with Mr. Pascoe, our  
24 witness statement number 4 and I gather from what Mr.  
25 Pascoe says there's a panel 5 that has been approved



1       which will look at models and self-government, and he  
2       suggested both 4 and 5 be heard at the same time, some  
3       time between November 12th and 18th, somewhere in that  
4       area, and that would complete our evidence. There  
5       might be some loose ends, but I would think that would  
6       complete our evidence.

7                   MADAM CHAIR: The situation is that you  
8       would like to bring more witnesses for panel 2,  
9       perhaps, or you're not sure?

10                  MR. IRWIN: At this stage with the  
11       problem we've had with the one consultant I think this  
12       will be the end of our evidence on panel 2.

13                  The evidence that we don't have today is  
14       the result of the consultant's non appearance and I  
15       want to get that on the record because I'll be talking  
16       to him when it comes to payment of the account time.

17                  MADAM CHAIR: All right.

18                  So the Board will not be hearing any more  
19       evidence with respect to your written witness statement  
20       for panel 2. You will be bringing, or you would like  
21       to bring, witnesses for panel 4?

22                  MR. IRWIN: Yes, I believe there are two  
23       that were listed, Louis Ainsley and Henry Wetelainen.  
24       I believe those are the two that are coming back.

25                  MADAM CHAIR: Yes, those are the

1 individuals you have identified for panel 4 and you  
2 gave an undertaking to Mr. Freidin that indeed you  
3 would be recalling those.

4 MR. IRWIN: Yes.

5 MADAM CHAIR: At least one of those  
6 witnesses.

7 MR. IRWIN: They should both be here.

8 MADAM CHAIR: All right.

9 And with respect to panel 5, OMAA has  
10 asked leave of the Board to present panel 5. That was  
11 not part of the original case and we had some questions  
12 about exactly what evidence would be led in panel 5 and  
13 we wanted to assure ourselves that it wouldn't  
14 duplicate any evidence that we had already heard and it  
15 wasn't clear exactly how long that evidence would take  
16 to present.

17 The last information we have about the  
18 scheduling of that evidence is that the witness  
19 statement could have been ready some time late October  
20 and that the evidence might not have been led until  
21 January.

22 MR. IRWIN: That's correct.

23 I saw a letter there with a time frame of  
24 a day and a half.

25 MADAM CHAIR: To lead the evidence,

1       that's right.

2                       Now the Board's understanding is that  
3       that evidence hasn't been prepared.

4                       MR. IRWIN:  It's the same consultant  
5       that's not here today.

6                       MADAM CHAIR:  So you have no idea at this  
7       point whether you're going to be leading that evidence?

8                       MR. IRWIN:  No, I don't.

9                       MADAM CHAIR:  How quickly will you  
10      determine that?

11                      MR. IRWIN:  Probably Monday or Tuesday  
12      when I get back to any office.  Probably by about 10:00  
13      a.m. Monday morning.

14                      MADAM CHAIR:  All right, then the Board  
15      will expect you to present at least two more witnesses  
16      for panel 4 and the question of panel 5 is outstanding  
17      until you get in touch with us.  And at that point I  
18      think we would want to speak to either you or the  
19      witness about exactly what evidence is being prepared.

20                      If it's determined that you're only  
21      bringing witnesses for panel 4 then presumably we can  
22      take care of that before December.  If it involves  
23      panel 5, from what OMAA's told us so far, it doesn't  
24      look like you would be ready before then although  
25      obviously the Board would like to take care of both



1 matters at the same time.

2 MR. IRWIN: What is happening, they were  
3 talking about models for self-government in panel 5.  
4 What is happening through cross-examination and the  
5 letters going in and what you heard from Mr.  
6 Wetelainen, models are in fact being developed on the  
7 ground and not, you know, some theoretical model.  
8 Models are starting to be developed and I don't think  
9 they're sort of one model, one global model. I think  
10 they have to be developed group by group, area by area.  
11 Whether it's with Ontario Hydro or with MNR.

12 I think that, myself, looking at this,  
13 that when you get closer to the end there should be,  
14 hopefully, some models in place and addressed rather  
15 than some theories, you know, what's happening in New  
16 Zealand or what's happening up in James Bay. I would  
17 think there'll be some models.

18 The events are going so quickly the last  
19 few months that they're overtaking the hearings almost.  
20 Everybody wants to get these things done immediately.  
21 Our problem is getting to all the meetings where people  
22 want to develop dialogue and so on and consultation.

23 My own feeling, just from what I've seen  
24 so far, is that probably closer to the end of the  
25 hearing we can come back with a more realistic

1       assessment of the models.

2                   MADAM CHAIR: Well, as you might know --

3                   MR. IRWIN: How do you feel about that?

4                   MADAM CHAIR: As you might know, Mr.

5       Irwin, the evidence for the hearing is scheduled to be  
6       completed for the entire hearing next spring. We'll be  
7       going into reply argument next spring.

8                   Now obviously there are lots of things  
9       related to resource management that take place outside  
10      this hearing, but I would certainly encourage you that  
11      if your clients wanted to do something about the  
12      proposed panel 5 that they consider it seriously now  
13      and that the Board would consider the request to do  
14      that and we would schedule it accordingly.

15                  MR. IRWIN: Thank you.

16                  MADAM CHAIR: Mr. Irwin, should we make  
17      this witness statement an exhibit?

18                  MR. IRWIN: Yes, please.

19                  Do you wish to be sworn or affirmed?

20                  MR. MACGUIRE: Sure.

21                  JOE MacGUIRE,  
22                  HAROLD MICHON,  
                  STANLEY SIMMONS; Sworn.

23

24                  MADAM CHAIR: Excuse me, Mr. Irwin,  
25      Exhibit 1925 will be your written witness statement

1 number 2 entitled The Impacts of MNR's Timber  
2 Management Policies On The Aboriginal Peoples of  
3 Eastern Lake Nipigon.

4 ---EXHIBIT NO. 1925: Written witness statement number  
5 2 entitled The Impacts of MNR's  
6 Timber Management Policies On The  
7 Aboriginal Peoples of Eastern  
8 Lake Nipigon.

9 MR. IRWIN: Okay, if I might introduce  
10 the panel and give some background. All are  
11 Aborigines. Mr. Michon, in the centre, you have his  
12 background, his resume. It's attached to the  
13 statement. He's a founding member of OMAA and its  
14 predecessor, a trapper, a miner, a member of the  
15 Canadian Armed Forces serving in Europe, United States.  
16 He makes his living in the Macdiarmid/Beardmore area,  
17 primarily off the land, but he has other trades of the  
18 land. He's a welder and one of the younger elders.  
19 He's getting very close to be -- he's in the lower end  
20 of being an elder in the area.

21 Mr. MacGuire, next to him, is almost a  
22 community in himself. I think he has -- how many  
23 brothers and sisters? Sixteen?

24 MR. MacGUIRE: Sixteen.

25 MR. IRWIN: They are almost the third --  
we should call this the MacGuire Beardmore/Macdiarmid

1 statement. He, similarly to Mr. Michon, makes his  
2 living off the land. In his statement you'll see that  
3 he was earning approximately \$5,000 just in the  
4 blueberry business, blueberry picking in the particular  
5 area. He has other skills. He's a butcher. He ran  
6 the captain of the boats periodically down towards Lake  
7 Nipigon Bay, down the Nipigon River.

8 MR. MacGUIRE: Nipigon River, yes.

9 MR. IRWIN: Nipigon River down to the --

10 MR. MacGUIRE: From Lake Nipigon to Lake  
11 Superior and Nipigon Bay.

12 MR. IRWIN: And both of these gentlemen  
13 have roots in that area, Aboriginal roots. Their  
14 parents, grandparents and great grandparents. That's  
15 about all they know, is that they're from that  
16 particular area.

17 And similarly to Stanley Simmons. Mr.  
18 Simmons is -- will corroborate some of the other -- the  
19 evidence that these two gentlemen -- I don't think  
20 you'll see anything new from Mr. Simmons that you would  
21 see generally in the statements of Mr. MacGuire and Mr.  
22 Michon, and the third gentleman who is Sylvanus -- how  
23 do you spell Sylvanus's last name? How do you spell  
24 that?

25 MADAM CHAIR: It's spelled



1 N-E-N-A-K-A-N-A-G-I-S.

2 MR. IRWIN: Who is not able to be here  
3 today. He was contacted by Mr. Michon as late as  
4 yesterday.

5 MR. MICHON: Yes.

6 MR. IRWIN: There's a certain amount of  
7 overlapping on this evidence and I'm not sure how the  
8 Board prefers me to proceed.

9 When I was talking to the gentlemen last  
10 night and going over the witness statements I was  
11 almost addressing my questions to them as a panel and  
12 those, whoever had the knowledge, would answer. Does  
13 that confuse the panel or transcript?

14 MADAM CHAIR: No, it doesn't confuse the  
15 panel, Mr. Irwin.

16 There are some pieces of evidence  
17 specifically discussed in the package by Mr. Michon and  
18 the Board might direct some questions directly to him.  
19 But otherwise I think your questions can be directed --

20 MR. IRWIN: I'll direct them to Mr.  
21 Michon and whoever wants to step in, if they have the  
22 knowledge, we'll go along that way.

23 DIRECT EXAMINATION BY MR. IRWIN:

24 Q. Mr. Michon, you're from the Eastern  
25 Lake Nipigon Area?

1 MR. MICHON: A. Yes.

2 Q. And where specifically?

3 A. I'm residing right at Macdiarmid  
4 right now.

5 Q. And how big is Macdiarmid?

6 A. Oh, total community would be about  
7 350 people.

8 Q. And in the statement you described --  
9 the people are described of the descendants of the  
10 original Lake Nipigon Ojibway, is that correct?

11 A. That's correct.

12 Q. How long has your family been there?

13 A. Permanently we moved there in 1921.

14 Q. 1921?

15 A. My grandmother was there from time in  
16 memorial.

17 Q. You yourself?

18 A. Myself, I got there in 1951.

19 Q. And your grandmother, where did she  
20 live in that area?

21 A. She lived right in Macdiarmid.

22 Q. And how about her parents?

23 A. Her mother travelled between Longlac  
24 and Lake Nipigon.

25 Q. And that's in the same general area?

1 A. Same area.

2 Q. I don't want to lead you a bit. As  
3 far as you know, your family's been there as long as  
4 you can remember, at least in your mind, is that  
5 correct? Going back as far as you can remember or  
6 passed on to you?

7 A. Yes.

8 Q. Mr. MacGuire, how about your family?

9 MR. MacGUIRE: A. My family's from  
10 Macdiarmid also. I was born in Macdiarmid.

11 Q. And what about your parents?

12 A. My father was born in Nipigon House  
13 on Lake Nipigon, on the west side of Lake Nipigon.

14 Q. On the what side?

15 A. The west side of Lake Nipigon.

16 Q. So you're on the east side?

17 A. My mother was born on Sand Point  
18 Reserve on the southwest side of Lake Nipigon.

19 Q. What about their sets of parents?

20 A. Well, my mother's parents were both  
21 born in Nipigon House and my father's parents -- she  
22 was from -- my grandmother on my father's side was from  
23 Belvae and her father was from Longlac.

24 Q. Are these in that area?

25 A. Yes.

1 Q. What about the grandparents? I  
2 suppose we have four sets of grandparents, great  
3 grandparents?

4 A. Well my grandfather on my father's  
5 side is from Ireland.

6 Q. What about the balance?

7 A. The balance is just -- as far as I  
8 know from the Lake Nipigon area. On my mother's side  
9 it's all Indians so mostly from the Nipigon area.

10 Q. Now I understand you understand  
11 Ojibway.

12 A. Yes, I do.

13 Q. You speak Ojibway?

14 A. Partially.

15 Q. Now in that area there are three OMAA  
16 locals, the Beardmore Bears, the Highway 1117 Metis and  
17 the Macdiarmid Metis, is that correct?

18 A. That's right.

19 Q. Are they active?

20 MR. MICHON: A. Yes.

21 Q. It says here there are 4 native  
22 bands. In fact there's 2 native bands there, is that  
23 correct?

24 A. That's correct.

25 Q. Sand Point and Rocky Bay Native



1 Bands?

2 A. Correct.

3 Q. The other two bands are break away  
4 groups that are looking for what, their own reservation  
5 status?

6 A. Yeah, they're trying to get  
7 recognized by the company.

8 Q. Now on page 1, under background, you  
9 discuss the areas as being bounded on the west side by  
10 Shakespeare and I believe that's Murchison Islands not  
11 Munchison (phonetic)?

12 A. Murchison Island.

13 Q. That's north of Shakespeare Island,  
14 is that right?

15 A. Yes.

16 Q. In Lake Nipigon on the north by the  
17 Onaman River and the Onaman Lake?

18 A. Onaman Lake, yes.

19 MR. FREIDIN: Sorry, where are we  
20 referring to in the witness statement?

21 MADAM CHAIR: Excuse me, are we referring  
22 to report number 1, Mr. Irwin?

23 Let's just clear this up before we get  
24 started. There are three separate reports in this  
25 witness statement. The first, Mr. Michon and Mr.

1 MacGuire's evidence is found in report number 2.  
2 Report number 3 is authored -- well, Peter Cizek's,  
3 name who is the consultant I think you were talking  
4 about, who isn't here, seems to be taking  
5 responsibility for report number 3, and report number 1  
6 again seems to involve that person.

7 I don't know, do these gentlemen want to  
8 speak to reports 1 and 3 or do they want to keep their  
9 comments to reports number 2 where their written  
10 evidence appears?

11 MR. IRWIN: It might be easier if I  
12 just -- without referring even to the reports, I just  
13 do it by examination and to specific pages on the  
14 reports because of things that were written by Cizek  
15 were obviously -- came from these gentlemen.

16 I'm not sure -- Cizek is the consultant.  
17 He can't give any direct evidence on what's on the  
18 ground.

19 I have called witness statement number 2  
20 on the third page, "understand background." I'm  
21 looking at it but I don't have to refer to a specific  
22 page.

23 Q. Now the area we're talking about --  
24 I'll go back.

25 MR. FREIDIN: Madam Chair, I'm just

1 wondering. The issue you raise is a matter that I was  
2 concerned about.

3 The report authored by Mr. Cizek indicate  
4 that he interviewed 28 people through some method  
5 called snowballing, something or other, and I'm  
6 assuming, without asking these witnesses, that they are  
7 three of the 28 people and, therefore, if that's  
8 correct, the evidence which appears in most of these  
9 reports is not really the evidence of these three  
10 witnesses, it's the evidence of 25 other people that  
11 Mr. Cizek interviewed and put together.

12 And I'm just wondering if Mr. Irwin is  
13 going to be allowed to lead them through parts of the  
14 report which aren't --

15 MR. IRWIN: I just indicated I'm not  
16 going to do that. I'll go directly to oral evidence  
17 without alluding to a specific section in the report.

18 MADAM CHAIR: Well, I think the Board is  
19 certainly prepared to hear these gentlemen talk about  
20 their experiences in the Macdiarmid/Beardmore area and,  
21 wherever those sorts of experiences are discussed in  
22 the evidence, the Board wants to hear that.

23 With respect to some of the conclusions  
24 that seem to have been drawn by the consultant, or how  
25 the study was carried out and that sort of thing, I

1 don't think the Board can listen to that today.

2 MR. IRWIN: Nor do I expect the Board to.  
3 You know, the evidence that we have is the evidence  
4 that we are relying on.

5 MR. MARTEL: I have a concern. What do  
6 we do with the reports, the first and the third one as  
7 evidence, per se, since there's no way for people to  
8 test it?

9 MR. IRWIN: I don't think they can be --

10 MR. MARTEL: Do we ignore it or do we  
11 throw it away?

12 MR. IRWIN: I think at this stage the  
13 onus is on us to provide the evidence orally. I don't  
14 think that we can rely on the report per se.

15 MR. MARTEL: All right.

16 MADAM CHAIR: And so is your intention,  
17 Mr. Irwin, by starting on -- sorry, this is so  
18 confusing. You're starting on the witness statement  
19 and Mr. Martel and I have started on report No. 2  
20 because that is where Mr. Michon and Mr. MacGuire's  
21 names appear--

22 MR. IRWIN: Right.

23 MADAM CHAIR: --on pages 14 to 18. Now,  
24 certainly in the witness statement there is information  
25 about that community that I would think these gentlemen



1 could speak to.

2 Why don't you start, and I'm sure that  
3 counsel will jump up if there's any objection to what's  
4 going on.

5 MR. MARTEL: See, my concern, Mr. Irwin -  
6 if I might just express it - for example, on page 15 I  
7 have a whole series of things marked off because  
8 there's some things there I'd never heard -- I can't  
9 recall hearing about, for example, MNR recommending  
10 avoiding the heart, liver and kidneys of moose.

11 MR. IRWIN: I'll deal with that.

12 MR. MARTEL: And I've got that marked off  
13 because I can't -- maybe I'm wrong, maybe I missed it,  
14 we've been here so long it's quite easy to forget  
15 something.

16 MR. IRWIN: I'll deal with that. There's  
17 been advice given along these lines.

18 Q. Was it in writing or orally?

19 MR. MICHON: A. It was in the newspaper.

20 MR. IRWIN: In the newspaper.

21 MADAM CHAIR: All right.

22 MR. IRWIN: I intend to deal with that  
23 point.

24 MR. MARTEL: Okay, fine. Because there's  
25 those sorts of things and yet they're in this report

1       which people aren't here to answer to. That's what  
2       worries me.

3                   MADAM CHAIR: And the final point is that  
4       the Board had gone through this evidence and scoped it  
5       some months ago with Mr. Reid and we gave our  
6       questions, such as the one Mr. Martel just raised, a  
7       series of questions that we wanted him to put to the  
8       witnesses.

9                   So we will probably interrupt you when  
10      you get to those points where we've already decided we  
11      would like to hear a bit more.

12                  Let's get going.

13                  MR. IRWIN: Okay.

14                  Q. Now, if I may lead you a bit. We  
15      were at Shakespeare and Murchison Islands, which are in  
16      Lake Nipigon, Murchison to the north and Shakespeare to  
17      the south. The Onaman River and Lake, where is that?

18                  MR. MICHON: A. That's a river that runs  
19      into Lake Nipigon and comes up Humble Bay on the  
20      eastern side, about three quarters of the way up the  
21      lake, approximately 35 miles from our home.

22                  Q. And that's to the north?

23                  A. That's Beardmore.

24                  MADAM CHAIR: Sorry, Mr. Irwin. We seem  
25      to have trouble hearing the witnesses. The court

1 reporters are having a problem.

2 MR. IRWIN: Okay.

3 Q. And where is -- now, it's called the  
4 Nammiwamikin River, but this is the Sturgeon River, and  
5 you know it by the name Sturgeon River; is that  
6 correct?

7 MR. MICHON: A. Sturgeon River, right.

8 Q. The Gathering and Upper Roslyns  
9 Lakes, where are they?

10 A. They're just about northeast,  
11 directly east/northeast.

12 Q. And leading you again, to the south  
13 there's Haynesworth, Weatherall, Cosgrove, MacIntyre  
14 Lakes and Pichitiwabik and South Bays in Lake Nipigon;  
15 is that correct?

16 A. Yes, Pichitiwabik Bay and South Bay.

17 Q. Okay. Do you have a traditional area  
18 where you traditionally hunt?

19 A. I just mentioned it.

20 Q. Okay. So these would be what you  
21 think are your traditional hunting and food gathering  
22 areas; is that correct?

23 A. Yes, that's because I don't interfere  
24 with other bands, I make my own boundaries and they  
25 make their own; I don't go into their ground, they

1 don't come into my ground.

2 Q. Okay.

3 MADAM CHAIR: Excuse me, Mr. Irwin. Are  
4 those traditional areas mapped in report No. 2?

5 MR. IRWIN: We have at some point five --  
6 actually seven maps that we would be referring to that  
7 have been inserted, and I was intending at some point,  
8 Mr. Michon, to deal with them individually and deal  
9 with them by subject matter, and Mr. MacGuire, by  
10 subject matter.

11 It makes it difficult. We had a  
12 traditional map, one copy, it went to the consultant.

13 MR. CASSIDY: Madam Chair, I don't wish  
14 to interfere, but I may have a map that may assist Mr.  
15 Irwin, if he wishes to consult it, and he's free to  
16 file it. (handed)

17 It doesn't identify those areas, but it's  
18 a map of the area, and if he wants to have his  
19 witnesses point it out, it might assist the Board.

20 MADAM CHAIR: Well, certainly the Board's  
21 understanding is that the maps contained in report No.  
22 1 are maps of land use of the Metis and off-reserve  
23 Indians of Beardmore and Macdiarmid.

24 ---Discussion off the record

25 MR. MICHON: Can I say something about



1 maps.

2 MR. IRWIN: Yes.

3 MR. MICHON: I had a map drawn out so  
4 that you would understand, going back to, let's say,  
5 time immemorial, trails that had been taken on when I  
6 was a kid with my grandfather.

7 This map is now missing. I'm trying to  
8 get it back and it was supposed to be here today.

9 I have trouble with these maps, as these  
10 foresters can tell you, they're junk. I cannot relate  
11 to them. Unfortunately I have bad eye site, but the  
12 real map is not here.

13 MR. IRWIN: Q. Okay. Is it possible to  
14 mark --

15 MR. MICHON: A. One again, if we had a  
16 real map. Okay, here's your --

17 MADAM CHAIR: I don't think it's critical  
18 today that you map for us what areas you use for what  
19 reasons, I don't think that is important today.

20 The Board just has to know whether it  
21 should ignore these maps which someone has put together  
22 showing various land uses in that Beardmore/Macdiarmid  
23 area.

24 MR. MARTEL: Maybe a simple question  
25 could be involved in relation to this, because the five

1 maps deal with berry gathering, they deal with domestic  
2 fishing and hunting and trapping.

3 Is this what you're saying, is the  
4 traditional use area outlined in these five maps for  
5 all of the people in your area?

6 MR. MICHON: That's correct.

7 MR. IRWIN: Yes.

8 MR. MICHON: That's correct.

9 MADAM CHAIR: Well, you just changed your  
10 mind. A few minutes ago you said that the consultant  
11 had put these maps together and you can't get the  
12 original individual maps you gave to him back.

13 MR. IRWIN: There was one map.

14 MR. MICHON: Mr. Irwin, knew nothing  
15 about that and you're not supposed to know it. It was  
16 a very sacred map that I marked out from historians.

17 MR. IRWIN: It was only supposed to be  
18 brought here.

19 MADAM CHAIR: So let's start again. So  
20 these individual maps then are in fact the maps of the  
21 areas that your people use for various activities  
22 including hunting, road hunting, trapping and berry  
23 picking.

24 MR. IRWIN: That's correct.

25 MR. MICHON: The map that's drawn out was

1 made before the timber companies went in.

2 MR. IRWIN: That's correct.

3 MR. MICHON: There was no roads.

4 MADAM CHAIR: Not the map in front of me,  
5 the map you're talking about?

6 MR. MICHON: Right.

7 MADAM CHAIR: And we're not going to see  
8 that map today?

9 MR. MICHON: No.

10 MADAM CHAIR: No. So what the Board is  
11 interested in are the maps we have in front of us. Are  
12 we to accept that these are the traditional use areas?

13 MR. IRWIN: Yes, that's our position. We  
14 may have a line off here and a line off here, but these  
15 are the traditional use areas; is that right?

16 MR. MICHON: That's right.

17 MADAM CHAIR: All right then, thank you.

18 MR. IRWIN: Q. Okay. Within this area,  
19 what kind of animals are hunted?

20 MR. MICHON: A. For food is mostly  
21 moose, caribou, on the larger scale, bear, on  
22 ceremonial, rabbits and beaver, deer.

23 Q. How about ducks, goose, grouse.

24 A. Yes, sir, they're too also.

25 Q. Any otter?

1 A. Furbearing animals, yes, there's  
2 otter and marten.

3 Q. We're talking about trapping now,  
4 okay, trapping. Are there any mink?

5 A. There's mink, yes.

6 Q. And what else for trapping?

7 A. You've got the basics, you've got  
8 lynx cat, the odd bobcat, which you say it's not there,  
9 it is there, what else, beaver.

10 MR. MacGUIRE: A. On the dry fur section  
11 we have, like Mr. Michon said, we have the lynx, we  
12 have bobcat, and we don't really trap bobcat but  
13 occasionally we do catch one, but we also have cougar,  
14 but they're rarely seen, and we have wolf, we trap  
15 wolf, fox, fisher, marten.

16 Q. Did you mention lynx?

17 A. Yes, I did.

18 MR. MICHON: A. Yes.

19 MR. MacGUIRE: A. And on the wet fur  
20 category we've got beaver, otter, mink - I'm not sure  
21 if the weasel is a dry or wet fur - so we also got  
22 weasel, squirrel, we also trap squirrels.

23 Q. Now, fishing. What type of fish are  
24 there in the area?

25 MR. MICHON: A. Lake trout, pickerel,



1 white fish, sucker, ling, speckled trout.

2 MR. MacGUIRE: A. Northern pike.

3 MR. MICHON: A. Northern pike and this  
4 map, also rainbow trout, sturgeon.

5 Q. Now, what type of plants are there  
6 for food?

7 MR. MacGUIRE: A. Blueberries,  
8 cranberries, mountain ash berries and raspberries that  
9 we have also.

10 Q. And without getting into the  
11 specific, are there --

12 MR. MICHON: A. There are also  
13 strawberries as well.

14 Q. Are there plants for medicines and  
15 ceremonies in the area?

16 A. Yes, there is.

17 Q. Now, are there any materials for  
18 housing or -- for housing or implements, building  
19 housing, lumber?

20 A. We make our own lumber.

21 Q. You make your own lumber from what's  
22 picked up in that area?

23 A. Yeah.

24 Q. And how do you make your own lumber;  
25 do you have a mill?

1 A. Yes, we own two sawmills.

2 Q. Okay. Are these assets shared with  
3 the non-aboriginals in the area?

4 A. Definitely.

5 Q. How did that come about?

6 A. Well, being a halfbreed you have to  
7 know about cultures, native and white. Our unique  
8 little village, we never knew about these words of  
9 racism, et cetera, et cetera, we just took a good  
10 licking and we got a good licking. We never knew the  
11 difference, what racism was.

12 It was also a fishing community where  
13 white settlers came in - I shouldn't call them white  
14 settlers, they've been here just about as long as I  
15 have - but they moved in and our little community built  
16 up from the fishing and logging.

17 Their offsprings are like our brothers.  
18 Like, we went to the same school, we intermarried, the  
19 whole nine yards. They are direct descendent, let's  
20 say, of our land. That is how we view them, like,  
21 there's no differential.

22 Like, there's one family of Icelanders, I  
23 didn't know they were Icelanders until they told me,  
24 but he's intermarried now into native but to me he's  
25 just another man, like the same as Sonny, I met him in

1 the bush, he's doing his trick, I'm doing my trick. He  
2 traps, fish, hunts, does the same thing -- exactly the  
3 things I do.

4 Q. Okay. You're a trapper; is that  
5 correct?

6 A. That's correct.

7 Q. How long have you had your trapping  
8 lines?

9 A. I'm afraid I'm going to have to make  
10 the MNR blush. I don't really have a trap line, I go  
11 where I please.

12 Well, I shouldn't say that, I don't go as  
13 I please, I go with the other trapper's consent.

14 Q. Okay. Now, that's what I want to get  
15 to. How do you lay out where your trap lines are going  
16 to be, how is this worked out?

17 A. Technically we have a map from the  
18 MNR that tells us where our borders which we completely  
19 ignore. We make a deal with the other trapper, like,  
20 if he's going to go up and fish, let's say, into where  
21 my trap line would be, naturally, he may as well take  
22 his traps there and make some money on the side, and  
23 vice versa, he gives me the same thing back, whether he  
24 be white or halfbreed or native.

25 Q. And do you know where these traplines

1 are?

2 A. Yes, we do.

3 Q. The families know where the traplines  
4 are?

5 A. The families know where the traplines  
6 are.

7 Q. So you work these traplines out by  
8 consensus within the area; is that correct?

9 A. Yes.

10 Q. Would you agree with that, Mr.  
11 MacGuire?

12 MR. MacGUIRE: A. Yes, I do.

13 MR. MICHON: A. Also, as I say, we go  
14 further north into Long Lac's territory, we have the  
15 commercial fishing licence up there also. We take our  
16 traps with us and go to whoever is running that  
17 territory and we make a deal with them, say, you know,  
18 we're going to sneak some fur out.

19 Q. Okay. You mentioned the term  
20 halfbreeds. Why do you call yourself a halfbreed? I  
21 mean, that's a derogatory term. Why do you call  
22 yourself a halfbreed?

23 A. Actually I'm extremely proud of it.  
24 It came about from a lot of bumps. It's something that  
25 we joke about, I guess it wasn't so funny at the time,



1 but when we were kids we were direct halfbreeds, we  
2 were the halfbreeds, this is before there was anything,  
3 like, Metis or anything like this.

4 Q. Before there were Metis.

5 A. Yeah. And the town was split up into  
6 like, the Indian, white and halfbreed. We were kind of  
7 despised by the white and it was just like your gang  
8 wars. So we go to the Indian section, they call us  
9 white man; and if we went back to the white side, they  
10 call us Indians, so we come out like the halfbreed.

11 Q. Okay. And do you all feel that way  
12 as Mr. Michon said?

13 MR. MacGUIRE: A. Yes. We were all  
14 brought up that way.

15 MR. SIMMONS: A. (nodding affirmatively)

16 Q. About how many people would you say  
17 would be in your traditional community, give or take a  
18 few?

19 MR. MICHON: A. What in Macdiarmid  
20 itself?

21 Q. Yes.

22 A. In this usage?

23 Q. Yeah, right. In that usage area?

24 A. Yeah, that varies.

25 Q. Approximately?

1                   A. The guys were chewing the rag  
2 yesterday over who goes where and what. Mike right now  
3 over there is our brother, or one of us. He's  
4 presently living in Thunder Bay and coming home, but  
5 he's always used this land. People in Thunder Bay come  
6 up and use this land.

7                   Q. Okay.

8                   A. So it's hard to say.

9                   Q. You were pointing to the audience to  
10 Mike MacGuire, is that correct?

11                  A. Yeah, as an example.

12                  Q. That's the other witness' brother; is  
13 that correct?

14                  A. That's correct.

15                  Q. Right.

16                  A. And also my brother.

17                  MR. MacGUIRE: A. Maybe I can shed just  
18 a little bit of light on the history - I hate to  
19 interrupt you - but what happens is every year we go to  
20 these traditional areas regardless of where we live.

21                         Like, when I lived in Thunder Bay I also  
22 went up to the Macdiarmid area to go hunting, fishing  
23 and picking blueberries, whatever, we just -- even  
24 though we lived in the city and, like, my brother lives  
25 in the city, he runs back and forth and so do my

1 brothers and sisters also, and not only our family  
2 because there are other big families that do the same  
3 thing.

4 Q. Where do you live?

5 A. Macdiarmid?

6 Q. Macdiarmid. You all live in  
7 Macdiarmid, this panel?

8 A. (Nodding affirmatively)

9 Q. Okay. Now, are you familiar with  
10 watersheds, with the Onaman watershed?

11 MR. MacGUIRE: A. Yes.

12 MR. MICHON: A. Yes.

13 Q. And the Sturgeon watershed?

14 MR. MacGUIRE: A. Yes.

15 MR. MICHON: A. Yes.

16 Q. And the Postagne watershed?

17 A. Postagne.

18 Q. How do these three watersheds relate  
19 to your traditional area?

20 A. These basically goes back to the  
21 original map. These were basically the trails that  
22 were used to go to the eastern parts, these were --  
23 where they had the dogsleds, major portages and  
24 everything else, the traditionals, and then we would  
25 adopt the same thing. These are the roads that lead

1 east from Lake Nipigon.

2 Q. That is the traditional --

3 A. That is the traditional.

4 Q. That is your traditional area?

5 A. Before the roads came in.

6 Q. The three watersheds I mentioned are

7 the traditional watersheds in your area?

8 MR. MacGUIRE: A. Right.

9 Q. The Sturgeon river.

10 MR. MICHON: A. Also the Black Water

11 River.

12 MR. MacGUIRE A. Black Water River, the  
13 Onaman and the Postagne and to this day we still work,  
14 Trap Narrows Lake, Gathering Lake, Weatherall and we  
15 pick blueberries in that area and we hunt and fish.

16 Q. About how much of your annual  
17 household income comes from the forest, right now.

18 MR. MICHON: A. Well, let's expand on  
19 that a little. Instead of saying the forest directly,  
20 off natural resources, that's commercial fish also.

21 Q. Okay. Well, the area --

22 A. Presently I'm cruising at 90 per  
23 cent.

24 Q. 90 per cent. How about you, Mr.  
25 MacGuire?



1 MR. MacGUIRE: A. Well, myself I was  
2 also thinking that I was getting around 90 per cent but  
3 I think it's -- when I started thinking about it last  
4 night, because I have a small pension from  
5 compensation, it would probably be around 60 per cent.

6 Q. Okay. How about you, Mr. Simmons?

7 MR. SIMMONS: A. Well, I would have to  
8 agree with Pat MacGuire, around that.

9 Q. 60 per cent?

10 A. Yeah.

11 Q. Okay. Now, does this area have any  
12 religious significance to you?

13 MR. MICHON: A. We were taught, we were  
14 taught that, yes, that there's religious sites, we have  
15 got them, we do respect them.

16 I should say, I'm not a practicer of it,  
17 but there are people that do practice it and we back  
18 them up, like, buying meat for them and stuff like  
19 that, but they are religious sites, yes.

20 Q. I don't want to know where they are,  
21 okay, and I understand that that is given on a  
22 confidential basis, but can you explain, what they are,  
23 maybe with the pipe area. What is a pipe area?

24 A. The pipe area is a place called  
25 pipestone, it's no great secret, and this is where they

1       went and made their ceremonial pipes. It's a stone  
2       that they require, and it's on the shores of Lake  
3       Nipigon, the south portion of it.

4                   MR. MacGUIRE: A. And they had these  
5       ceremonies around Lake Nipigon and on the land area.

6                   Q. Are there shaking tent areas?

7                   A. Yes. That's up on the eastern side  
8       of Lake Nipigon, that is the Sand Point area.

9                   Q. So there's two shaking tent areas.  
10      Okay. What are shaking tent areas?

11                  A. I guess the best way to explain, it's  
12      something that we try to keep to ourselves, it's very  
13      hard to describe because it's something like when the  
14      priest come and told us about the God that we couldn't  
15      see; well, I'm going to explain something to you that  
16      you can't see.

17                  It is where the medicine man goes inside  
18      and you want to know something that's happening to your  
19      family or what happened in the past. You went to see  
20      him, he was somewhat of a fortune teller.

21                  The point was that the wigwam or the tent  
22      would start to vibrate on its own without anybody  
23      shaking it, and this meant that the power was within  
24      it. And then when this thing started to vibrate it was  
25      something -- like, you were not even allowed in there.

1 You went and told him your problem, you stayed away or  
2 turned your back to it, or you could turn and look  
3 around and look and see whether it was shaking, and  
4 then he would come out and give you the details.

5 Basically that's what it is.

6 Q. Are there areas, for instance, when  
7 men would go when they had to go on significant  
8 journeys, specifically say, World War II, were there  
9 specific areas where you would go?

10 A. Yes.

11 Q. What are these called?

12 A. These also called sacred areas and  
13 they come into -- I'm just going to mention one place,  
14 Sand Point, but there were other areas around the lake  
15 and --

16 Q. I don't want you to tell me where  
17 they are.

18 A. Okay.

19 Q. Just what are these?

20 A. They come in, a ceremony before they  
21 left and, like, go on to the wars and whatnot, and they  
22 would be given good luck or ask -- thank the spirits or  
23 whatever.

24 I wasn't personally at those, I wasn't  
25 old enough to be at the ceremonies, so...

1 Q. Are there still elders considered to  
2 be good medicine men and bad medicine men in the area?

3 A. Yes.

4 MR. MICHON: A. Yes.

5 Q. Okay. And I understand these names  
6 are secret and kept within your heart; is that right?

7 MR. MacGUIRE: A. That's correct.

8 MR. MICHON: A. Yes. These are very  
9 sacred people, male or female and it's not the ones  
10 that you see in the pow-wows; these are separate, of  
11 course.

12 Q. Now, you've seen clearcuttings, Mr.  
13 Michon, in the area. Before I get to specifics, what's  
14 your overall view of clearcutting?

15 A. It's bad business.

16 Clear cutting puts stress and strain on  
17 everything in the environment. I wasn't going to come  
18 up here today but from the white society, the  
19 half-breed society and the native society told me to  
20 come up and talk on this business. Nobody likes it.  
21 Everybody has the same problem with it.

22 We're finding problems with our moose.  
23 Our fur bearing animals are totally -- the impact is  
24 sudden. There is no decline. It is a sudden impact  
25 from overcrowding game.



1                   Like you're putting -- you're taking a  
2 home away. It would be the same if you took three  
3 houses, burnt down two and put all these people in one  
4 house. A disease would definitely come about. So you  
5 have the same thing on clearcutting. It's bad for  
6 erosion.

7                   I'm no forester. I don't claim to be.  
8 But I do see that they're having problems with the  
9 second growth. The trees just don't seem to be  
10 grabbing as good as they used to on let's say a strip  
11 cut.

12                   Q. Have you had any -- have you seen the  
13 effects of the use of herbicides?

14                   MR. MacGUIRE: A. Yes, we see them  
15 constantly.

16                   Q. What do you see?

17                   A. Well, again I'm not a scientist and I  
18 don't want to go into names or everything. We took  
19 names off some of the signs that we seen and I think  
20 they're in the book all right, but I have no idea what  
21 these names mean. But I do know that they kill the  
22 bugs, the birds move out, the animals have to change  
23 their way of living because they kill the food that  
24 they eat. The fur bearing animals are displaced.  
25 Their main food sources are gone and just generally it

1       disrupts the whole area.

2                   Q.   Mr. Martel, when we opened, talked  
3       about -- wanted to know more about warnings, if they  
4       exist, about eating parts of animals after spraying.  
5       Do you have direct knowledge, either of you, of  
6       warnings?

7                   A.   Like in the moose and --

8                   Q.   Yes.   Yes.

9                   MR. MICHON:   A.   Pretty well animals that  
10       we go for we are going to consume.   Moose, beaver, it  
11       doesn't really matter.   The first place we go for is  
12       the liver.   This has traditionally been passed on to  
13       us.   We check it out for disease, parasites, whatever's  
14       is in there.   And if it's a good liver we eat the  
15       animal.   If it doesn't look too good we fry it up and  
16       cook it like we were going to eat and feed it to the  
17       dog.   If he get diarrhea we don't eat it.   That's more  
18       or less what the test goes through.   Poor dog.

19                   The MNR brought this out - I forget now,  
20       around the '80s - do not eat the heart, liver and --  
21       the organs of the animal of a moose.

22                   Q.   How about the kidney?

23                   A.   The kidneys.   All the organs.

24                   Q.   How did they bring it out?

25                   A.   They brought it out that we were

1 getting acid rain from the south. This is how it  
2 started out is that these animals were getting diseased  
3 from acid rain, some other stuff like this. It was  
4 actually a warning to the hunters when they came out  
5 and we could never understand this. How can this moose  
6 get all these diseases and the animals down south  
7 couldn't get them.

8 Like cattle. Why were they selling  
9 cattle liver on the store and we couldn't eat this  
10 thing out of the moose. We eat the same food. We eat  
11 off the same land. So we starts figuring this out  
12 start looking and noticing that the animal coming out  
13 of the sprayed areas wasn't up to par and clearcutting  
14 then between the spray, we're not too sure what's doing  
15 it, but something is doing it.

16 Q. What about walking in sprayed areas?  
17 Are there my warnings to humans?

18 A. Yes, there is.

19 Q. Where are these warnings made.

20 A. They warnings are put along the road.  
21 We were going to bring one in but we figured that would  
22 be theft so we left it there.

23 Q. And who puts them up?

24 A. MNR, I imagine would. I'm not too  
25 sure if it's with the companies or --

1 MR. MacGUIRE: A. Mostly the MNR puts  
2 them up.

3 Q. What do they look like?

4 MR. MICHON: A. They look like a plastic  
5 bag --

6 MR. MacGUIRE: A. With a round circle  
7 with a human standing in there with a cross on it and  
8 don't walk.

9 Q. And the human's you?

10 A. Yes.

11 MR. MICHON: A. Moose can't read.

12 MR. MacGUIRE: A. These signs are put up  
13 before the spraying begins and almost immediately after  
14 the spray is done, like a week or two, the signs  
15 disappear. I don't know. The MNR takes them down or  
16 if the birds take 'em or the bears bury them or  
17 whatever happens. But in any case they disappear  
18 within a week or two after the spray is done in that  
19 area.

20 Q. Okay. Mr. Michon --

21 MR. MARTEL: Can I ask a question?

22 MR. IRWIN: Yes.

23 MR. MARTEL: How long, in your experience  
24 is it, that these animals leave an area before they  
25 come back, a sprayed area, and the animals leave? Do

1 you have any experience or have any of you bothered to  
2 try to determine how long --

3 MR. MacGUIRE: The problem is they do  
4 come back almost immediately and they consume the fresh  
5 food that goes up and they must get some of the spray  
6 in their systems, and this is where the problem comes  
7 from when you can't eat the internal organs of the  
8 animals. That's where they must build up.

9 But if they would stay away for a few  
10 years, I imagine if they went back they'd be okay.

11 MR. MICHON: They spray every year.

12 MR. MacGUIRE: They spray every year in  
13 generally localized, but in the same general area.

14 MR. IRWIN: Q. Mr. Michon, you provided  
15 a map outlying eight areas within the traditional area  
16 as part of the witness statement. They're in a  
17 grouping so I don't think it's important that we know  
18 exactly at this stage of your evidence where they are,  
19 but that they're in the area you're talking about.

20 I want you to -- I want to draw on your  
21 observation as to what has happened at first the  
22 Fullerton Lake, Dodd Lake, Eaton Lake area.

23 MR. MICHON: A. Those were places where  
24 I once again trapped. I had a trap line east of that  
25 and we used to snowshoe from -- let's say from Tripto



1 Lake into Fullerton Dock and that area there and we  
2 used to trap once again with permission from the area  
3 trapper. Like it wasn't actually our trap line, but  
4 once again swapping lines . He used to fish -- he used  
5 to trap on the south end of my lines and I used to go  
6 onto the west side of his.

7 So we used to snowshoe across there and  
8 we used to make our living in there and then when they  
9 cut it out --

10 Q. Approximately when did they do -- cut  
11 in that area?

12 A. They were in there in the early  
13 '70's.

14 Q. And what type of cutting was this?  
15 Selective or clearcut?

16 A. They started off selective and then  
17 they started bringing in the dinosaurs.

18 Q. The dinosaurs? That's the big  
19 equipment?

20 A. Yeah. That's what we call the  
21 evolution of machinery. When these machines first come  
22 out they all looked like dinosaurs and now they're  
23 getting smaller, but they do the same damage.

24 But they brought in the dinosaurs in that  
25 area. That's the first time I seen them.

1 Q. What happened at the time -- well  
2 what happened to the animal population if anything?

3 A. It deteriorated.

4 Q. How? Can you be more specific?

5 A. They left. Like I said the impact  
6 sudden -- we moved out. We didn't go back. We moved  
7 to another territory.

8 Q. Now Cosgrove Lake. Did you make any  
9 observations there?

10 A. Yeah, I was in there 1959. That's  
11 the year I was in there.

12 Q. What did you see there?

13 A. They were cutting up in that -- they  
14 were there in the horse day. I got there in 1959. We  
15 were prospecting at the time.

16 Q. Had you done hunting in there before  
17 the cutting?

18 A. No, that was before my time.

19 Q. And what did you see in there?

20 A. Well they started cutting and not  
21 replanting it. Right now let's say it's just -- let's  
22 say a chunk of the moon.

23 Q. It's a what?

24 A. A piece of the moon.

25 Q. A piece of moon?

1                   A. Yeah. If you want to starve there  
2                   that's the place to go. Nobody hunts there anymore.  
3                   Right up on Cosgrove. The lake itself gives trout,  
4                   planted trout, but if you really want to go in there  
5                   and trap, to live off the land, you're better off to  
6                   take a shot at the moon.

7                   Q. Had Cosgrove Lake been a traditional  
8                   hunting area?

9                   A. That was one of the main traditional  
10                  areas.

11                  Q. The main traditional areas. And now  
12                  it looks like, in your words, the moon?

13                  MADAM CHAIR: Excuse me, Mr. Irwin.

14                  Mr. Michon, you referred to Cosgrove Lake  
15                  as the clearcutting having taken place during 1958 and  
16                  1959?

17                  MR. MICHON: No, no. They were going in  
18                  there -- what's happening in there was that they  
19                  weren't clearcutting at that time. It's when they went  
20                  in and took the second growth they didn't replant back  
21                  and there's underbrush there now. It's poplar or small  
22                  birch sapling. I walked through it two years ago.

23                  MR. IRWIN: Q. Are you familiar with the  
24                  Crooked Green Creek area?

25                  MR. MacGUIRE: A. Yes, we lived there

1 for years.

2 Q. Did you do any hunting there?

3 A. Yes, we hunted, fished, trapped.

4 Q. And what's happened in there?

5 A. Well, the area was planted over.

6 Berries quit producing because they didn't get enough  
7 sunlight.

8 Q. They quit producing?

9 A. Yeah. Well, the area grew up and  
10 there was no more berries there. There was nothing  
11 there. After it was cut it was all -- it was a cutover  
12 area and a burn at the same time.

13 On one side of it was a cut area and on  
14 the other side was a big burn. So the combination of  
15 the two, the hunting and fishing, just wasn't like it  
16 used to be so we moved to -- that's part of the  
17 Sturgeon River watershed so we moved further up the  
18 Sturgeon River on to Cosgrove Lake, to Camp 81,  
19 Gathering Lake area. We moved back and forth so we  
20 could pick berries.

21 Maybe I should tell you the reason why we  
22 did pick berries, if you don't mind. We were a  
23 half-breed family and because we were a half-breed  
24 family in the early '50's, real early '50's, we weren't  
25 eligible for welfare like the Indian people were, and

1 we used to go out in the berry patch in the summertime  
2 and we'd have to -- and while the berry season was  
3 going on we had to make enough money to buy all our  
4 staples for the winter and also for -- in our trapping  
5 area, for it kept us going all year round. So we made  
6 our living directly right off the land.

7 MADAM CHAIR: Excuse me, Mr. MacGuire.  
8 Again with the Crooked Green Creek area which was cut,  
9 it was clearcut during the 1950's?

10 MR. MacGUIRE: Well, the area was burnt  
11 and also clearcuts on the 72 area, which is southwest  
12 of the Crooked Green on the Sturgeon River, where right  
13 now they're actually proposing a dam there.

14 MADAM CHAIR: Okay. And did anything  
15 grow back on those areas?

16 MR. MacGUIRE: Yes. Yes, the trees were  
17 planted in some areas and the growing back is doing  
18 pretty good, but they're at a point now where the fur  
19 bearing animals are just starting to come back and the  
20 moose is starting to repopulate. It's just starting to  
21 get back good now and this just happened in the '50's,  
22 early '50's. So now it's just starting to get back to  
23 where it once was.

24 MADAM CHAIR: So you're saying that there  
25 was in this case, as opposed to the Fullerton Lake



1 case, this was an example of successful regeneration,  
2 things grew back, but in the meantime, in 30 or 40  
3 years, you haven't been able to trap there?

4 MR. MacGUIRE: Yes, it was a sparsely  
5 populated place for trapping but we did make our living  
6 there somehow in that area.

7 MADAM CHAIR: And after it was cut as  
8 well?

9 MR. MacGUIRE: Yes.

10 See after it was burnt or cut and then  
11 burnt the blueberries grew. So that's what we made our  
12 living on with the blueberries and the hunting and the  
13 fishing and I'm not just talking about -- the Crooked  
14 Green area, I'll tell you where it is. It's on the  
15 Sturgeon River about 15 to 20 miles from Lake Nipigon -  
16 I'll just give you the rough area -- and the Crooked  
17 Green is a little river that runs into the Sturgeon.  
18 It's a lake that runs -- it's a Lake Nipigon watershed  
19 and that's the first area -- I'm not just talking  
20 for -- like our family wasn't the only one there and at  
21 one time there was 38 campsites on it from different  
22 families living and working the area.

23 MADAM CHAIR: Now if that area had not  
24 been cut at all, if there had been no logging in that  
25 area, how would that have affected the berry picking?

1                   MR. MacGUIRE: Well, it wouldn't have --  
2           I really don't know how it would have affected the  
3           berry picking. The berry picking -- the berries seem  
4           to thrive in an area where there was a fire or if it's  
5           clearcut, and they don't thrive on -- like if it's  
6           clearcut, like two miles square, there's no berries  
7           unless there's a hill on the outside edge of it where  
8           the wind and the sun can't dry the berries up. But in  
9           the middle there's no berries or very, very few and  
10          it's -- actually the berries grow good in a small burnt  
11          area or a strip cutting area where they get protection  
12          from the elements plus a lot of sun.

13                   MR. IRWIN: Q. I would like to pass on  
14          to the McKnight Lake and Gravel Lake. Any observations  
15          about this area?

16                   MR. MacGUIRE: A. Well it's another  
17          traditional area that's on the outside edge all right,  
18          but there's a lot of people from Beardmore and  
19          Macdiarmid that use that area, and over the past few  
20          years it's been sprayed and what happens is it's a big  
21          area, a big cutover, clearcut area, and spray one area,  
22          put the signs up and they take the signs down and then  
23          the next year you got to put the signs up and spray  
24          another section of it and then they'll take the signs  
25          down. And two, three years down the road you don't

1 know whether it's been sprayed if you haven't been in  
2 there before.

3 So we went into an area that we knew that  
4 was sprayed the previous year and there was blueberries  
5 in that area and we picked the blueberries. We got  
6 about, oh, 10 to 15 quarts of the blueberries. There  
7 was four or five of us picking. We didn't spend all  
8 day there. And we travelled back to our base camp  
9 which was about 50 miles away and when we got there our  
10 berries were deteriorating. The skins weren't good on  
11 them. They started to leak and we never used them. We  
12 just kept them there beside our camp as a reminder.

13 Everybody that come along we say, 'Look,  
14 here's McKnight Lake berries where they sprayed.' So  
15 to make sure that no other person would come along and  
16 go picking berries to sell them or eat them.

17 Q. Did anything happen to the animals in  
18 that area?

19 A. Well then again it was about 50 miles  
20 from our base camp and I never seen no big animals. I  
21 saw moose tracks but I never seen any animals. We  
22 didn't hunt in that area after the spray.

23 Q. Mr. Michon, do you have any knowledge  
24 of that area as far as animals?

25 MR. MICHON: A. Yeah. Once again this

1 is an area that I trapped and gone out.

2 Q. Why?

3 A. Decline.

4 Q. Decline in animals?

5 A. Decline in animals, right.

6 Q. How can you explain a decline? In  
7 what type of terms?

8 A. Okay, if you want to go -- like if  
9 you're going to trap around a timber company the best  
10 move you could ever make is if they're strip cutting is  
11 get your traps in between the strips because the  
12 animals are forced into that area when you cherry pick.  
13 They have a ball. And the life stays there.

14 Now when you go to more of a clearcutting  
15 area where they take the huge tracks of land out --  
16 well, by the time you cross it you're played out  
17 anyhow. The animals go to the edge and then they go  
18 further and further and further. The impact is sudden.  
19 Like they'll eat all the animals right there and then  
20 continue on looking for food.

21 Q. What do you mean they'll eat the  
22 animals out? They become predators in the small area?

23 A. Yeah they'll clean out the predators  
24 that are -- the predators well eat let's say the birds,  
25 squirrels, and then they move on and move on and move

1 on. This cut out area they're not having time to  
2 recycle themselves.

3 Q. The chain is destroyed?

4 A. The chain is destroyed so everything  
5 moves out.

6 Q. Okay. I want to pass on to Foam Lake  
7 and Dempster Lake.

8 Mr. Michon, do you have any observations  
9 about this one?

10 A. Foam Lake and Dempster Lake I was  
11 taken there by a gentleman who --

12 Q. Pardon me?

13 A. I was taken there by another  
14 gentleman to -- just to witness it.

15 Q. What did you see?

16 A. Chunk of the moon.

17 Q. When was the clearcutting.

18 MR. FREIDIN: I'm sorry, what was the  
19 answer?

20 MR. IRWIN: A chunk of moon.

21 MR. MacGUIRE: I'm also familiar with the  
22 Foam Lake area.

23 MR. IRWIN: Q. Was there cutting done in  
24 the area?

25 MR. MICHON: A. Yes.



1 Q. Okay, what type of cutting?

2 MR. MacGUIRE: A. Clearcutting.

3 MR. MICHON: A. Clearcutting.

4 Q. When?

5 A. We can't really tell you the dates.

6 MR. MacGUIRE: A. In the '60's sometime.

7 Q. What did you see there?

8 A. Then again when we're there the  
9 animals -- it wasn't very good hunting. We did pick  
10 blueberries in the area. The blueberries thrived on  
11 some of the hills and the fish itself in Foam Lake was  
12 very good eating because they ate a lot of the bugs,  
13 but I haven't been back to see if the fish are good or  
14 still good or not. But at the time fish was very good.

15 Q. Okay. I'd like to pass on to a more  
16 recent history, the Trap Narrows Creek and the West  
17 Gravel Creek, are you familiar with this area?

18 MR. MICHON: A. This is something  
19 that --

20 MR. MacGUIRE: A. That's the Sturgeon  
21 River watershed.

22 MR. MICHON: A. This is something that  
23 Pat and I, not only Pat and I, other people we were  
24 watching this one here.

25 Q. When was this?

1 A. A couple of years ago.

2 MR. MacGUIRE: A. Yeah.

3 Q. A couple of years ago?

4 MR. MICHON: A. Yeah. We were up there,  
5 we were actually living up there, we were picking  
6 blueberries, we --

7 Q. Were you trapping?

8 A. No, we weren't trapping.

9 Q. You were picking blueberries?

10 A. Yeah.

11 Q. What did you see?

12 A. Well, it's like I said, we're still  
13 monitoring it.

14 Q. It's what?

15 A. We're still monitoring it.

16 Q. Okay.

17 A. There was lots of moose, there was  
18 lots of moose in that area. It was one of our, let's  
19 say, sure shot places. Like, let's say, my brother was  
20 going to come in from Manitouwadge, phone me up and  
21 say: I need my moose now, when can we pick it up. So  
22 he would come down and say -- I say, come on down  
23 Friday and Saturday we would go pick up his moose. It  
24 was sure a shot place, quick, handy and so far we  
25 haven't seen much around there.

1 Q. You're seeing a decline already?

2 A. Yeah. Oh yes.

3 Q. How would you describe the decline?

4 A. We don't see no moose. No tracks.

5 Q. That's absolute.

6 A. We also walk through, let's say -- we  
7 just don't sit on the road, we walk to the edge of  
8 these things and look for moose tracks, see what  
9 they're feeding on, to us it's a hobby.

10 Q. What's a salt lick?

11 A. A salt lick, a salt lick is a place  
12 where the moose, all animals, let's say, go and get  
13 their salt. The salt lick can be natural or a moose  
14 can make it.

15 Q. How does a moose make a salt lick?

16 A. He'll get into, let's say the muck,  
17 and he'll start stomping around, and this is done over  
18 a series of years, and he'll make it all mucky, it's  
19 something that you wouldn't want to get into, and they  
20 muck it up and muck it up, and matter of fact, if  
21 they're going to go in there and feed, they'll walk in  
22 there and they'll muck it up before they start to feed  
23 to bring more salt to the surface.

24 And it's actually kind of a water -- sort  
25 of reminds me, you see these ladies mud wrestling.

1 Q. Yeah.

2 A. That's what a salt lick is.

3 Q. What happens to the salt licks after  
4 the clearcut?

5 MR. MacGUIRE: A. They dry up.

6 Q. They what?

7 MR. MICHON: A. They dry up.

8 Q. And in your opinion, do the moose  
9 need these salt licks?

10 A. Oh, definitely. This year they don't  
11 have no salt lick, this is what drives them to the  
12 road, they come to the road in the winter for the salt.

13 Q. They do, eh?

14 A. Yes.

15 Q. And take the salt off the road?

16 A. Yeah. They'll also do it in the  
17 summer, like, the salt will come off the road and it  
18 will go into these little wet holes that are alongside  
19 the highway. This is man-made let's say with the moose  
20 and he'll start mucking around there and he'll make  
21 one.

22 Matter of fact, they made one four years  
23 ago about two miles from our home. It was right on the  
24 highway.

25 Q. Okay. I would like to pass on to

1 Triangle Lake. Are you familiar with Triangle Lake?

2 A. Yeah, from bygone days. I think the  
3 first time I trapped I was through, it would be 1952 I  
4 think.

5 Q. When was the last time you were  
6 there?

7 A. Last week.

8 Q. And what's your observations at this  
9 area?

10 A. We're not only dealing -- when we say  
11 Triangle Lake, we call a location --

12 Q. It's an area.

13 A. Okay.

14 Q. The area of Triangle Lake?

15 A. They've clearcut all the way up  
16 around Marble Lake, that's the Triangle Lake area, what  
17 we call it.

18 Q. Yes.

19 A. And there is a growth in there, like,  
20 on the - what would you say, north side of the road -  
21 there's a growth in there, once again it's all brush.

22 I don't know if the trees didn't take  
23 place or what the regeneration was or anything else,  
24 but it's just totally bush, it's garbage.

25 Q. What happens to the wildlife in that



1 area?

2 A. Marten don't go into this country,  
3 they don't like this country. They don't call them  
4 pine marten for nothing, it obviously likes pine.

5 He's totally not in there. He's  
6 totally -- a beaver, he'll regenerate and come back in  
7 and that's all he needs is an alder really, but he will  
8 come back in but, once again, if you're clearcutting he  
9 will work around the edge of it, he ain't going to  
10 portage across in a desert.

11 Q. I want to stop here. What about --

12 MADAM CHAIR: Excuse me, Mr. Irwin, our  
13 court reporters need a break. I don't like to  
14 interrupt, but would it be all right with the witnesses  
15 if we took a break now and came back in about 20  
16 minutes.

17 MR. IRWIN: Certainly.

18 MADAM CHAIR: Thank you very much.

19 ---Recess at 9:45 a.m.

20 ---On resuming at 10:15 a.m.

21 MADAM CHAIR: Thank you. Be seated.

22 MR. IRWIN: Q. Did we deal with Triangle  
23 Lake, in the Triangle Lake area. I believe so.

24 MR. MICHON: A. Yes.

25 Q. Okay. Pass on to Lord Mayor Lake and

1 Vincent Creek; are you familiar with that area?

2 A. Yeah. I understand that. I'm just  
3 trying to put it in its proper place.

4 These places were taken -- I was taken  
5 to, oh, a couple of years back by the trappers to take  
6 a look at it. Like, basically didn't trap in there,  
7 but they took me in there and we went in there and it  
8 was pretty well cleaned out. Matter of fact, they took  
9 movies of it.

10 Q. Pardon me?

11 A. They took movies of it.

12 Q. Took movies.

13 A. Like, they were taking movies of it  
14 and --

15 Q. What did you see?

16 A. Clearcut it.

17 Q. Was the clearcutting recent or --

18 A. It was ongoing.

19 Q. Ongoing.

20 A. It was ongoing.

21 Q. And what was happening to the  
22 wildlife?

23 A. They had taken off.

24 Q. Okay. Some went to the other areas  
25 you've described.

1 A. Yes.

2 Q. Okay.

3 MADAM CHAIR: Excuse me. Mr. Michon, how  
4 far have you observed the wildlife -- to what distant  
5 does it leave that area, does it stay within five miles  
6 or does it --

7 MR. MICHON: Okay. All these series of  
8 these clearcutting areas -- in this whole area, like,  
9 getting away from Fullerton and Daugh, that's up on the  
10 north, but this whole area.

11 I can sum it up by observations, by not  
12 only me but all the woodsmen, families, and I can sum  
13 it up to you as doggone lonely out there because even  
14 the birds have left.

15 We have a saying now, where are the  
16 words. Alfred Hitchcock has got a story out, the birds  
17 are here or something. We're wondering, where are the  
18 birds.

19 The whiskey jack, he's a tough little  
20 guy, he can survive under any conditions, and even  
21 while you're making your fire to make your tea they're  
22 sitting on your shoulders waiting for you to open up  
23 your groceries.

24 I think we might have seen two last year.  
25 We seen two. We took a moose in the winter in that

1 area, at the edge of the clearcut, matter of fact, we  
2 chased it across the clearcut on snowshoes. We downed  
3 it and, of course, we're getting older, we can't move  
4 this thing tonight, so we buried it. We left out the  
5 traditional food for our friend the whiskey jack and we  
6 buried the moose so nothing else could touch it and did  
7 our traditional thing.

8 We came back in the morning with our  
9 machines and that to pull him out, the animal out, and  
10 there still wasn't a whiskey jack track around there.  
11 There was that light snow, maybe just a dust, and there  
12 was no tracks of any birds at all that come in there  
13 and took it. There was completely nothing.

14 I walk through the bush regularly, I  
15 haven't seen a fresh tree yet that a woodpecker has  
16 knocked on. Presently I'm sawmilling wood that's full  
17 of worms and I don't see a woodpecker. We have one  
18 sparrow hawk with us where we're sawing right now,  
19 we're sawing in the bush. Usually the birds are all  
20 around us. We shut the sawmill down, it's dead silent.

21 We don't see any wildlife at all. We did  
22 see a bear the other day.

23 Q. Yeah.

24 A. We seen a bear the other day, but as  
25 far as wildlife is concerned, what we're usually seeing

1 is not there any more, and this is not only our  
2 observation, these are all by all woodsies.

3 MR. MacGUIRE: A. And maybe just to add  
4 a little bit to it, like, the bigger game animals, such  
5 as the moose in the clearcut, the moose is exposed not  
6 only to the hunters but also the wolves, the wolves  
7 move into the area. So they're getting it from both  
8 ways and they move back and they get thinned out, it  
9 takes quite a few years for them to build back up  
10 again.

11 Q. That's an important point. The moose  
12 is in the open to the hunters?

13 A. Yeah, open to the hunters and  
14 also --

15 Q. And the moose has a much less chance  
16 of survival with the --

17 A. The wolf population also builds up  
18 and they get it both ways. That's not only to the  
19 wolves, the bears also exposed to the wolves.

20 Q. Mr. Simmons, you said originally you  
21 get about 60 per cent of your income from this  
22 traditional area. I understand that you know how to  
23 use heavy equipment, bulldozing and you work -- try to  
24 work in the forestry sector and you hunt.

25 When you catch a moose, what do you do



1 with it?

2 MR. SIMMONS: A. Well, I open him up and  
3 take the insides out and check the liver, and the last  
4 few moose I had the one liver was a good liver, to what  
5 I thought was a good liver, there was no cyst on it or  
6 little white bumps on it, and the other two, they had  
7 these here things on it.

8 Q. Cysts and what else?

9 A. Oh, I'm sorry. Little white bumps,  
10 little scabs on the liver. So, like, I love eating the  
11 liver of the moose, but these ones here, I just left  
12 them behind.

13 Q. Okay. After you catch a moose, do  
14 you sell it, what do you do with it?

15 A. No, no.

16 Q. What do you do with it?

17 A. What I do with my moose, if I go out  
18 hunting with this man or whoever I know, we split it  
19 half and half.

20 Q. Then what do you do with your half?

21 A. And then from there with my half I  
22 feed my family, I feed my mother, feed my brothers, I  
23 feed the people in the community. You got any moose  
24 meat? Here, I give moose meat to everybody that I know  
25 that hasn't got it.

1 Q. Do you moose hunt for sport?

2 A. No.

3 Q. Do you moose hunt for --

4 A. I moose hunt for feed.

5 Q. Okay. Mr. Michon is smiling. The  
6 same question to you, do you moose hunt for sport?

7 MR. MICHON: A. Actually we find it very  
8 boring. It's a job that we have to do. It's I guess  
9 like sitting down and having a cup of tea, or you've  
10 got a chore that you don't like to do, like taking the  
11 garbage out or whatever, it's a --

12 Q. Are you seeing any difference -- Mr.  
13 Simmons mentioned cysts and other things. Are you  
14 seeing anything in the moose?

15 A. In the spray area of 81 down by - I  
16 couldn't tell you exactly where it is - it was sprayed  
17 a couple of years ago, the wife and I shot a little  
18 bull. We brought it home and - we butcher two ways -  
19 Sonny's the butcher here - if we want it done store  
20 style or white style, Sonny does it; if we want to do  
21 it traditional style, we rip the moose apart, literally  
22 seam, and that involves putting your fingers in it and  
23 ripping the seam apart.

24 And while we were doing this from the  
25 sprayed area I discovered something in the membrane, it

1 was in the form -- it looked like an egg only with a  
2 black yoke, that's the impression, and then so we  
3 started really looking. They were visible to the eye,  
4 we got the magnifying glass out and we played with it  
5 and all of a sudden we stopped, and then we started  
6 really looking and we found three more. And this was  
7 on the hind quarters.

8 So we decided to do the same thing to the  
9 front quarters and we also found one in the front  
10 quarters. So we didn't think nothing of it, we  
11 certainly give any to our children. So I thought, I'm  
12 going to tackle this guy anyhow, this is something I  
13 never seen, I'm going to eat it anyhow.

14 At the same time my nephew discovered the  
15 same thing in his moose. Two days later I had mine  
16 packaged and froze and he took his down to the MNR, and  
17 the MNR took a look at it over the desk and advised him  
18 to take it and burn it. They never took a sampling of  
19 it, they never shipped it out, they did nothing, but  
20 they advised him to burn to moose.

21 They never told us what it was. I burned  
22 my moose also at the same time.

23 Q. Mr. MacGuire, have you seen anything  
24 in the entrails lately different?

25 MR. MacGUIRE: A. Yes. Specifically I

1 can relate to specific cases. My brother Mike shot a  
2 beautiful animal last fall, a moose that was probably  
3 about seven to eight years old, it was just a beautiful  
4 animal and I went and I helped him take the guts out  
5 and bring it out and the first thing we did is we took  
6 the guts out and we checked the liver, the liver --

7 Q. How big would the liver be in the  
8 moose?

9 A. Well, normally for that size of an  
10 animal , I'll just go like this - the liver would  
11 probably be --

12 Q. Approximately two feet, approximately  
13 a foot and a half?

14 A. Yeah, under. Say 20 inches or so.

15 Q. Okay.

16 A. And that one had an usually large  
17 liver. And, being a meat cutter, I know how to handle  
18 liver and work on it, so we put it on the ground and I  
19 took a knife and I cut across the skin and I just  
20 grabbed the skin and snapped it, like that --

21 Q. That's sort of like a membrane?

22 A. Yeah, a membrane over the liver and  
23 it was an off colour, like a beige colour to a dull red  
24 colour, and it was weaved all through, and when I  
25 checked the liver itself - if you only reach in about

1 an inch on the liver you couldn't take any liver out,  
2 it was just like --

3 Q. Like jello?

4 A. Like a jello, yeah. If you went down  
5 past an inch, then you could get chunks of it, but it  
6 was just -- so we left the liver in the bush and  
7 internal organs. Also, the heart on that animal was  
8 unusually thin, but the animal itself was in beautiful  
9 shape for the time of the year.

10 Q. Okay. Are you seeing any cysts or  
11 anything --

12 A. Yes, I'm familiar with cysts.

13 Q. What are you seeing?

14 A. I've seen cysts in animals, and  
15 this -- I went to a meeting once with the MNR and they  
16 told us how the cysts come in the animals and they  
17 showed us that if you eat those cysts they didn't  
18 bother you, you know, you could -- apparently they die  
19 when you freeze them or cook them, but I've yet to eat  
20 one.

21 Q. I don't blame you. I'm going to move  
22 from moose livers to blueberries now.

23 Mr. MacGuire, you've indicated you pick  
24 blueberries to supplement your winter income because  
25 you're not a status Indian?



1 A. That's right.

2 Q. Okay. Are you familiar with  
3 glyphosphate, trade name vision?

4 A. Yes. My familiarity is I see the  
5 signs in the bush with it on and that's where it ends.

6 Q. And the signs have that on?

7 A. Yes. And the name itself, I'm not a  
8 scientist or anything in there but I see that on the  
9 signs in the bush, they have a plastic bag on  
10 them, again, there's a round circle with a man on it and  
11 a cross over it, like not to walk in the area.

12 Q. Okay. Let's talk about the Black  
13 Water River area. Are you familiar with that area?

14 A. Yes, I am familiar with the area.

15 Q. What's your familiarity with the  
16 area?

17 A. Well, the Black Water River area is  
18 one of our -- one of the areas we used to hunt and over  
19 the years they clearcut it, on the upper end of the  
20 Black Water River, and this year where the river was  
21 running was -- maybe water running pretty well all  
22 summer, maybe a foot of water in it, and this year it  
23 was -- it almost stopped, the water itself almost  
24 stopped running. It was unusually dry, but it never go  
25 that low before. And that was -- I don't know -- and I

1 don't know the impacts on, like if fish die or whatever  
2 happens, but the water was -- there was very little  
3 water in it this year.

4 Q. Okay. Are you familiar with any  
5 spraying being done in that area?

6 A. Yes, there was a lot of spraying  
7 being done in the area of the headwaters of the Black  
8 Water River.

9 Q. Did you notice any changes in the  
10 environment because of the spraying?

11 A. Well, the spraying in that area was  
12 ongoing, but this year it seemed to be unusually a lot  
13 of it because it was regenerated, it was replanted in  
14 areas and then it was sprayed.

15 Generally the way I see them do it is  
16 they clearcut an area and they leave the poplar and the  
17 birch standing up, they come along with scarifiers -  
18 these trees stand up for two years some times - and  
19 they come along and they scarify it, they drag heavy  
20 objects through the ground.

21 And while the poplars are there they're  
22 seeding the whole area, and then they go and they plant  
23 some jack pine, spruce -- black spruce and white  
24 spruce, and maybe two or three years down the road, the  
25 poplar start to come up faster than the trees that are

1 planted, so they spray the area to kill the poplar.

2 And when they do spray the area to kill  
3 the poplar, they kill -- all the vegetation is killed  
4 including moss -- some mosses or all the mosses, and  
5 where the area that was seeded previously for the  
6 poplar, now the poplar come up thicker in the areas.

7 Q. Does anything happen to the berries?

8 A. Oh yeah, the berries are -- we can't  
9 use the berries.

10 Q. Why?

11 A. Well, in the areas where we know  
12 exactly where they sprayed, we don't use the berries  
13 because they're just -- they're not right, they get  
14 soft fast, they don't keep, the taste seems to be  
15 there, but they're poor -- really poor quality.

16 Q. Is that the same case at the Black  
17 Water River area?

18 A. Yes.

19 Q. There's been spraying there?

20 A. Yeah.

21 Q. Same results from the berries?

22 A. Yeah. This year before the spraying  
23 program we went in there and picked blueberries and  
24 again this Black Water area I'm talking about is the  
25 93 -- known as the 93 and that's where the Black Water

1 actually starts. Nothing's extensively sprayed this  
2 year.

3 Q. Okay, I'd like to move over to the  
4 Barber Lake area. Has that been sprayed?

5 A. Yes, there's a section that was  
6 clearcut. Again this area would be roughly half to  
7 three quarters of a mile in diameter and it was sprayed  
8 and berries and everything just died.

9 I didn't even go in the area this year to  
10 see if they regenerated or what happened. We generally  
11 just -- once we know an area is sprayed we don't go  
12 back to it for hunting or gathering food or for any  
13 reason. We try and keep out of it.

14 Q. Would that apply to Rosalyn McKnight  
15 Lake area too?

16 A. Yes.

17 MR. MICHON: A. If I could add to that,  
18 please?

19 Q. Yes.

20 A. That area that we discussed, this  
21 year we've -- partially last year and this year  
22 totally, we've totally moved out of that country. We  
23 have now changed our hunting grounds because of --  
24 we're scared what's in the animals. We never took any  
25 game out of there this year or blueberries.

1 MADAM CHAIR: Excuse me, Mr. Irwin.

2 Mr. MacGuire?

3 MR. MacGUIRE: Yes.

4 MADAM CHAIR: In the areas where you have  
5 stopped picking blueberries because there's been  
6 spraying, how many years do you wait before you go back  
7 into those areas or have you ever returned to those  
8 areas?

9 MR. MacGUIRE: We never returned in there  
10 for picking blueberries or even hunting. I've never  
11 returned to them yet.

12 The spraying program's been going on  
13 pretty strong the last few years so this year one of  
14 our main areas where we hunted is 93 area. Again it's  
15 in Black Water area. Well, we have to find a new  
16 hunting ground because they sprayed it extensively.

17 MR. IRWIN: Q. Okay, I want to look at  
18 the maps. Map number 1. Do you have that in front of  
19 you? Do you want to take a look at that? The hunting  
20 map.

21 Map number 1, that's the - no, it's in  
22 the other section - now it's marked and it refers to  
23 hunting area.

24 In your combined opinions, with any  
25 exceptions or additions, would you say this reflects



1 your traditional hunting area?

2 MR. MacGUIRE: A. Yes, it does and also  
3 it doesn't fully take in the full area. We're also  
4 north to Tawapta Bay.

5 Q. So you would think that it would be  
6 this area, plus this area --

7 A. Plus other areas. Plus more areas  
8 like the islands. We also hunt those.

9 MADAM CHAIR: Excuse me, Mr. Irwin, are  
10 you on the general hunting map in report one or the  
11 impacts on Mr. Michon, the map behind --

12 MR. IRWIN: The general hunting. There  
13 are a series of five maps in that section -- two, four,  
14 six maps.

15 MADAM CHAIR: Six maps.

16 MR. IRWIN: Q. Map number 2 is road  
17 hunting. What is road hunting?

18 MR. MICHON: A. Road hunting is  
19 something like playing Russian roulette. You go out  
20 and you drive around until you see a moose.

21 Q. So it's basically in the same area as  
22 map number 1 where there are roads, is that correct?

23 A. That's right.

24 MR. MacGUIRE: A. Right.

25 Q. Map number 3, trapping, it looks like

1 the hunting area plus an extensive area on the east  
2 side of Lake Nipigon.

3 MR. MICHON: A. The west side.

4 Q. The west side, pardon me. I will  
5 deal with the east side. Does this reflect your  
6 traditional trapping area?

7 MR. MacGUIRE: A. Yes, it does.

8 Q. Do you have any knowledge of the west  
9 side?

10 MR. MICHON: A. No. I think what's  
11 marked out here is that they've got the maps confused  
12 from ancient days to now. They have it all on the one  
13 map. People from, let's say come from Gull Bay,  
14 Nipigon House, and they transferred over to Macdiarmid,  
15 while his grandfather or his great grandfather,  
16 whoever, trapped over there.

17 Q. Your traditional area is primarily on  
18 the east side?

19 A. On the east side and the lake also.

20 Q. Thank you.

21 Map number 4, domestic fishing. Are you  
22 familiar with the domestic fishing in that area?

23 MR. MacGUIRE: A. Yes, we are.

24 Q. Does it accurately reflect domestic  
25 fishing?

1 A. Yeah, it's pretty close.

2 Q. So it's along the shore and out into  
3 some of the islands.

4 Have you hunted on any of these islands?

5 MR. MICHON: A. Yes, although they are  
6 closed, closed islands for hunting. Basically, yes, we  
7 hunt on them.

8 Q. There's no cottages out there are  
9 there?

10 A. No, there's no cottages out there.  
11 Nothing.

12 MR. MacGUIRE: A. With the exception of  
13 there's two small islands that are privately owned, but  
14 they're small enough that we don't hunt on them.

15 Q. Map number 5, berry gathering.

16 I suppose Mr. MacGuire is more familiar  
17 with this. Does this accurately reflect the areas of  
18 the berry gathering?

19 A. Yes, that pretty much takes it in.

20 Q. Map number 6, cultural sites.

21 I understand that this does set out the  
22 cultural sites but there are additional sites within  
23 the area that are sacred sites.

24 The main thing that there are -- the only  
25 point is that there are sacred sites within your

1 traditional area that you've alluded to earlier?

2 MR. MICHON: A. Yes, there is. That's  
3 right.

4 MR. MacGUIRE: A. There are more sites  
5 here.

6 Q. There are more than are even on the  
7 maps?

8 MR. MICHON: A. Yes.

9 Q. Now I want to go over to map number  
10 1, impacts of Harold Michon.

11 You have indicated eight spots -- eight  
12 spots are circled on this map. Are these the eight  
13 lake areas that we have discussed.

14 MR. FREIDIN: Which map are we looking  
15 at?

16 MR. IRWIN: Map number 1, impacts on  
17 Harold Michon.

18 MR. MICHON: Yes.

19 MR. IRWIN: Q. How do they interrelate  
20 to the area we discussed as your traditional hunting  
21 and food gathering area?

22 MR. MICHON: A. A. We're pretty well  
23 dead smack in the centre of them.

24 Q. The next map, number 2, impacts on  
25 Patrick MacGuire.

1                   There's three numbers, 1, 2 and 3. Are  
2                   these the three lake areas we have just discussed in  
3                   relation to berry picking?

4                   MR. MacGUIRE: A. Yes.

5                   Q. Okay. How do they --

6                   A. Well see the three areas that are  
7                   marked out on this map is the most recent -- is the  
8                   most recent used areas by myself in where we camp. But  
9                   in reality the whole area -- you go back over the areas  
10                  and we've lived on the whole area and hunted on it and  
11                  fished. Made our living off of it.

12                  Q. The point is where the infringement  
13                  has occurred significantly is, as you've alluded to, is  
14                  in your traditional areas, is that correct?

15                  A. Yeah.

16                  Q. Just tying one into the other.

17                  I'd like to pass on to employment. When  
18                  you're wood cutting, Mr. Michon, what are the mechanics  
19                  of it? Who sets the rules? Who do you see? Who pays  
20                  you? What's the structure.

21                  MR. MICHON: A. Are we talking logging  
22                  or sawmilling?

23                  Q. Start with whichever you prefer.

24                  A. Well I guess they interrelate.

25                  At the present time I'm what you call



1 gleaning.

2 Q. A what?

3 A. Gleaning. Terminology used in the  
4 mosaic law where they left the wheat and the oats for  
5 the poor people to pick up.

6 The pipeline went through last year and  
7 they left about 35 cords of wood, jack pine, standing.  
8 We moved our sawmill up to it and we started sawing.  
9 We've asked the pipeline for permits. They just told  
10 us to go ahead so we went ahead.

11 I go to MNR to try to get allocations.  
12 They stick us in let's say Kitto-Kilkenny which has  
13 been cherry picked.

14 Q. What do you mean cherry picked? You  
15 used that term last night. What does cherry picked  
16 mean?

17 A. Okay. One area, let's say, I cut --  
18 I think it was in the latter part of the '80's we went  
19 in there, and this is on Kitto-Kilkenny, the Crown  
20 workings -- there was already sawmill men in there.  
21 We're not too sure who it was, but we know McMillan  
22 Bloedel was in there, and they cherry picked all the  
23 good poplar for let's say veneer.

24 Q: What do you mean cherry picked?

25 A. They went in there, selected, cut out

1 the good timber and left everything else there and we  
2 went back and got scraps. Basically that's what it is.

3 Q. So do you want to continue on what  
4 you're saying?

5 A. Okay. So now from there you go to --  
6 you try to -- to try to get something outside of that  
7 working, Crown working cycle. MNR refers you to a  
8 timber company. A matter of fact they encourage you to  
9 go see a timber company. So you go around looking for  
10 the third party agreement.

11 The timber companies are very -- they're  
12 helpful. Their hands are tied. Let's give an example.  
13 Mr. Belanger give me a key to an area in Spooles Lake to  
14 go look for cedar.

15 MR. CASSIDY: Sir, if can just interrupt.  
16 Madam Chair, Mr. Belanger is sitting  
17 right beside me. I'm sorry. Go head Mr. Michon.

18 MR. MICHON: Yeah, he's a forester for  
19 Domtar. He was very kind and I would say sympathetic.

20 He give me the key to Spooles Lake cutting  
21 area, to tell me to go in there and look over the  
22 cedar, see what I thought of it. He was going to issue  
23 me a permit to go in there and cut it. I walked in  
24 it - there was also birch in there - and I walked it  
25 over. I wasn't that impressed. By the time I figured

1 I had to take these scraps and move them out it would  
2 cost me more than the wood was worth. Like the  
3 abundance wasn't there.

4 Consideration to move my mill up there  
5 crossed my mind, but they were going to burn it. It is  
6 burnt now I do believe. So once again you're dealing  
7 with scraps, gleaning.

8 Who's all to blame for this I don't know.  
9 If it's MNR or who it is. But you got to go through a  
10 system.

11 MR. IRWIN: Q. How does system work?

12 MR. MICHON: A. The system, well they  
13 start off from the centre, you got to work, walk --  
14 Kitto-Kilkenny, you got to walk your legs off, which I  
15 did. You walk it around and you go look for this here  
16 cut and you find a cut and you take it back over and  
17 you give it to MNR. MNR takes it, says, 'Okay, that is  
18 a nice area. You've done all the walking.' Then from  
19 there they put it out in a tender and I think there's  
20 12 or 13 people on this tender. They send it out all  
21 on tender. This doesn't guarantee you're going to get  
22 it and you have to bid on this wood and -- yeah, you  
23 have to bid on it and if you're lucky enough you get  
24 it. But there's no guarantees that you are going to  
25 get it.

1 Q. Right.

2 A. You have to bid on the stumpage.

3 MR. MARTEL: So this is the Crown --

4 MR. MICHON: Nipigon Crown working  
5 circle.

6 To get out of it -- it's mission  
7 impossible to get out of the -- unless you're going to  
8 deal with the timber company period, third party  
9 agreement, you're finished right there. There's no use  
10 going to be on it.

11 MR. SIMMONS: The Nipigon Crown working  
12 circle was given to native people, chief band members,  
13 to do the forestry in this area.

14 I've been working with Don McAlpine of  
15 MNR and I've got a letter to go to -- I got a letter  
16 from him on July the 15th about what kind of equipment  
17 you have to get started in the forestry business. So I  
18 wrote a letter back and told him what kind of equipment  
19 I had and I got a letter back and he stated that I was  
20 the only one who applied to his letter, and he said  
21 that -- to come in so we can start negotiating on  
22 areas.

23 Like Mr. Michon got that letter and I got  
24 the letter and about 12 others, or 11, 10 others, and  
25 what, myself, all I wanted to see what areas they had

1 available that were feasible.

2 So I went there. He pulled me some maps  
3 of areas, and so I went to timber cruise these areas,  
4 or two areas, and he told me that these areas have open  
5 roads, easier access. But the wood that he's giving to  
6 us, like has been cut out from the highway or from the  
7 roadway into the bush may be 2,000.

8 So I have to go in there with my  
9 equipment and build a road to this area that I have,  
10 that they want to give me. To build a road a half a  
11 mile, it will cost a fair amount of money. And the  
12 problem is Domtar has the right to refuse your wood.

13 MR. IRWIN: Q. What's their price per  
14 cord?

15 MR. SIMMONS: A. Domtar said the best  
16 they could give me was \$80 a cord.

17 Q. And did the stumpage come off that?

18 A. Oh, when I talked to Don McAlpine, he  
19 says, 'The wood that you run to the mill would be  
20 deducted at \$8.60 per cord.

21 Q. Stumpage would be deducted?

22 A. Yeah.

23 Q. So you deduct that from the 80.

24 Do you have any choice on the price or  
25 where you're going to sell it?



1 A. Say that again?

2 Q. Do you have any choice on the price  
3 or to whom you're going to sell it?

4 A. Do I have a choice?

5 Well, if Domtar refuses to take the wood  
6 then I can do -- go to whoever I want. If I want to  
7 sell my wood to Harold Michon, fine, I could do that.  
8 But they have to refuse me first.

9 Q. Okay.

10 A. And they never seem to do that  
11 because they're going to get the wood from you as cheap  
12 as possible.

13 As far as the cutters are concerned --  
14 like cutters, you're looking at an average, if they own  
15 their own skidder, 22 bucks to \$25 you have to pay them  
16 for the wood.

17 Q. You've had to pay for the cost of the  
18 roads?

19 A. Plus the roadway to build. This all  
20 has to be deducted from that \$80 a cord.

21 Q. What is there at the end? Is there a  
22 gain?

23 A. Well I haven't took the agreement yet  
24 and I'm still thinking about this. For the amount of  
25 wood in the area you can -- rough estimate -- the

1 amount of wood that's there I would say approximately  
2 20 per cent of it would be cull wood. It's not  
3 feasible and it's been picked already. Like he said,  
4 cherry picked, and to get to where you want to cut this  
5 wood stand it's something that I can't afford to do at  
6 the time.

7 Q. I want to get back to Mr. Michon.  
8 What's a third party agreement?

9 MR. MICHON: A. A third party agreement  
10 is, I go up to Domtar, put a proposal before him. I'm  
11 just using that as an example. It could be Abitibi.

12 Q. How does this work? In practice how  
13 does this work?

14 A. Well then I go back -- I take it and  
15 literally I'm cutting on their land, cutting their wood  
16 with MNR's blessing. Like to go right into detail I  
17 think I'll have to get a secretary to help me do that,  
18 but basically you're cutting Domtar's wood.

19 Q. How do their unions interplay in  
20 this? I think the Board would find this interesting.

21 A. I come out of one timber company  
22 looking like Marco Polo I had so many maps stuck to me.  
23 And all this wood that I could have 'til I almost got  
24 to door and hey, by the way, you have to go talk to our  
25 union. You have to get permission from the union also

1 to do this.

2 Q. So how does this work?

3 A. Well, you go to the union and they  
4 send you back to the company. I guess they don't mind  
5 if you're going to get some -- you're not going to take  
6 their work which I can see.

7 Usually the stuff that you're going to  
8 get is stuff that the company doesn't want to touch nor  
9 their men. Their men are pretty fussy too on what they  
10 cut. Like they're jobbers. Like they're  
11 piece-workers. And they don't want it to be scrap. If  
12 they put them in scrap the company knows about it  
13 within a couple days.

14 Q. What's the bottom line of this  
15 procedure as far as any gain to you in this area?

16 A. Gain? There's absolutely no gain.  
17 It's a dead wall.

18 MR. IRWIN: On this high note I think  
19 I'll end my evidence in chief.

20 MADAM CHAIR: Thank you, Mr. Irwin.

21 The Board has a few additional questions  
22 for these witnesses before we begin cross-examination.

23 And have any of you gentlemen been  
24 involved in timber management planning with MNR,  
25 attending meetings to talk about future plans to cut an

1 area, or receiving something in the mail telling you  
2 what MNR was going to do?

3 Have you had those kinds of encounters  
4 with MNR, aside from agreements to do work for  
5 companies?

6 MR. MICHON: Yes. I attended them, but  
7 that's no more, I won't waste my time, that's a dead  
8 end.

9 MADAM CHAIR: And why do you think  
10 attending meetings about timber management planning is  
11 a waste of time?

12 MR. MICHON: Actually they're mostly open  
13 houses. This doesn't deal with an MNR case, an open  
14 house, but this is an open house that happened to me a  
15 few years ago which I'm still reeling from.

16 I went to an open house dealing with  
17 Jackfish with Ontario Hydro. Being a commercial  
18 fishermen at the time I went in and I went in to see  
19 the open house and they showed me this and that and I  
20 told them in very nice tones that I didn't want nothing  
21 to do with it, it doesn't belong there and et cetera,  
22 et cetera because of pollution, et cetera, et cetera,  
23 and left there in a pretty heated argument.

24 There was only me and the staff there. I  
25 went out and I got a coffee and while I was having that

1 coffee, another commercial fishermen, seen my truck  
2 parked outside and he come in and started reeling the  
3 hell out of me, and I asked him, what's wrong?

4 He said: I went in there, he said, with  
5 both barrels loaded, he said, and when I left they told  
6 me that I was the only guy today that complained. And  
7 I was still reeling from -- I said: Listen, you better  
8 sit down here. I said, I just come out of there, I  
9 said, I'm still smoking.

10 But this is their way of playing open  
11 house, like, what gain is it? Like, for people to  
12 come inside and say this.

13 MADAM CHAIR: This wasn't about timber  
14 management.

15 MR. MICHON: No, no.

16 MADAM CHAIR: This was about a commercial  
17 fishing licence and a Hydro project.

18 MR. MICHON: The point is, it's a dead  
19 end, it doesn't matter how you talk about it, what open  
20 house you go to. It doesn't matter if it's timber  
21 management, wildlife, fishing, what it is, it's a dead  
22 end. Open houses, as far as I'm concerned, is the most  
23 useless piece of stuff that I ever seen.

24 MADAM CHAIR: And have you ever gone to  
25 any of the MNR people if you heard they were going to



1 cut in an area; have you ever said: I don't want you  
2 to cut here or here, because this is where I fish and  
3 this is where I pick blueberries and can you cut around  
4 that, or --

5 MR. MICHON: I don't quite know how to  
6 answer that. Obviously, or somebody is not familiar  
7 with MNR. I'm not saying the Minister, I'm not saying  
8 the local people, the local people that we do business  
9 with, but when you are explaining something like this  
10 to them you are talking to a dead end, their minds are  
11 made up, it's a go come hell or high water, it is a go.

12 They'll bring in better staff from  
13 Toronto. If you're arguing with them, they'll bring in  
14 better people, they'll stack the decks. You are  
15 fighting on a dead end. And then they say to you:  
16 Where's your expertise. We can't afford an expertise,  
17 we're just telling them our views of what we think is  
18 going on. It comes out to be a blank, a total blank.

19 MADAM CHAIR: So you've never been able  
20 to go and say: On this spot on the map there's  
21 something there and I don't want that wood cut, protect  
22 that, don't cut there?

23 MR. MICHON: On Nipigon Crown working  
24 circle we refused to cut a salt lick.

25 MADAM CHAIR: You objected to a cut?

1 MR. MICHON: We didn't object, we refused  
2 it.

3 MADAM CHAIR: And it didn't happen?

4 MR. MICHON: It didn't happen, but that  
5 was with the blessing of the guy that we worked for.  
6 It is still standing there.

7 MADAM CHAIR: But MNR --

8 MR. MICHON: They have it mapped out to be  
9 cut out, yes.

10 MADAM CHAIR: And then when you objected  
11 to it, it wasn't cut.

12 MR. MICHON: It wasn't cut but then,  
13 again, it was all scrub, so the contractor didn't  
14 really want to take it out.

15 MADAM CHAIR: So you're saying wherever  
16 there's valuable timber, you don't feel you can stop  
17 the harvesting of that timber?

18 MR. MICHON: If there's a conflict with  
19 wildlife, yes. We're not against harvesting wood,  
20 there's a necessity for it, it's how it's done, we  
21 feel. We're not against making roads and progress and  
22 the whole nine yards of it, we're certainly not against  
23 that.

24 Someplace along the line I feel that  
25 there's a breakdown of communication between us and,

1 let's say, MNR -- they can't break the timber  
2 companies. MNR has an obligation, I feel, to talk to  
3 us and say: Hey, what's going on, what do you guys  
4 feel about this? That's what I personally feel.

5 MADAM CHAIR: And you don't believe  
6 that's possible by going to open houses or, how else do  
7 you see yourself getting your viewpoint across to MNR?

8 MR. MICHON: That's why I'm here today.

9 MADAM CHAIR: Okay. Now, on another  
10 matter, in your written evidence and from what you've  
11 said to the Board this morning, you seem to be trying  
12 to say that the spraying of herbicides has something to  
13 do with defects in the moose, with diseased livers and  
14 cysts and so forth. Is that what you're trying to say  
15 to the Board?

16 MR. MICHON: Actually what we're trying  
17 to say, it's also in this statement, that we notice a  
18 decrease in size and body fat on the moose from those  
19 areas. Like I said, we changed our hunting areas now,  
20 so we're not going to be too familiar in the future  
21 about it, but we do notice a very bad decrease in fat  
22 content and size.

23 We're not going to come out and say --  
24 pinpoint it to say that it's the spray that's doing it,  
25 we are saying that's a possibility between the spray

1 and the clearcutting that's putting a stress on the  
2 moose, there's a stress.

3 MR. MARTEL: Have you taken any of these  
4 samples to the Ministry of Natural Resources for some  
5 sort of analysis as to what's happening or what's  
6 causing it?

7 MADAM CHAIR: When you mentioned the  
8 cysts, was that the same association, are you trying to  
9 suggest that cysts or things that you're finding in the  
10 moose - and you've given us three or four or five  
11 examples - are you suggesting that that could also be  
12 related to spraying?

13 MR. MacGUIRE: Well, what we're really  
14 saying is that we know that there's something wrong but  
15 we don't definitely know for sure that it is the  
16 spraying. We notice there's a big change happening and  
17 we don't know if it's spraying or a combination --  
18 we're not scientists, we're just woodsmen and  
19 hunters --

20 MR. MARTEL: That's why I ask if you have  
21 taken any of this to MNR and requested analysis to what  
22 they think is creating the problem.

23 MR. MICHON: I mentioned earlier that my  
24 nephew took a moose in there with the defect in it and  
25 it never got over the counter, and I don't think my

1 nephew is going to beg them to take it. I don't t even  
2 think it was recorded that he was told, take it out and  
3 burn it.

4 MADAM CHAIR: Have you ever been given an  
5 opinion by someone at MNR about the different possible  
6 causes of your observations on the moose, or have you  
7 ever received anything in writing to suggest that cysts  
8 and fat content and so forth might be related to any  
9 number of factors, I don't know what they are.

10 Has MNR ever given you that kind of  
11 information?

12 MR. MICHON: No.

13 MR. MacGUIRE: I've got partially that  
14 type of information from MNR through the cysts. At the  
15 time the guy that was talking told us that the cysts  
16 that were in the moose, they wouldn't harm you, but  
17 then they had to have -- the cycle was with the wolf  
18 and the moose before the cyst would come into the  
19 moose.

20 There was a cycle that they mentioned  
21 that the wolf would eat the moose, he'd eat the deer,  
22 he'd deficate by a pond where the moose feed and  
23 whatever comes out of the stuff on the vegetation, the  
24 moose eats it, and to complete the cycle the wolf has  
25 to eat the moose. In turn, the wolf -- the moose gets



1       cysts in it, but this was the only explanation I was  
2       ever given or seen. It was at an open meeting on --

3               MR. MICHON: This is better known as deer  
4       worm.

5               MR. MacGUIRE: Deer worm, yeah.

6               MR. SIMMONS: About '88 or '89 I shot a  
7       moose -- well, I didn't shoot the moose. My wife  
8       spotted the moose, when she came back there was a moose  
9       on the highway but it looked sick.

10              I went there about eleven o'clock in the  
11       morning and I walked right up to the moose, I patted  
12       him on the nose, and that moose did not run away, it  
13       crossed over the road, walked along the side -- walked  
14       on the side of the road and down in the gulley, I  
15       walked.

16              So I went to Beardmore and come back, and  
17       about four or five o'clock the moose got through my  
18       timber -- this is about 2,000 feet away from where --  
19       about 2,000 feet away from where you turn into -- this  
20       is around eleven o'clock, and about five o'clock that  
21       moose got to the lake. As you turn in to Macdiarmid  
22       there's a lake right there.

23              So, like, when I was coming home there  
24       was a bunch of people standing around and -- so they  
25       went and got MNR. So they looked at it and the fur

1 looked very ragged on it, so they said: Well, I think  
2 we should shoot it.

3 So I says: Well, I've got a gun here, so  
4 I shot it. And they took the jaw bone out and they  
5 hauled the moose away. Where they hauled it, I don't  
6 know, and what they did with the jaw and whatever else  
7 they did, I don't know, I never heard anything more  
8 about it.

9 MADAM CHAIR: All right. I don't know  
10 how much farther we can take that matter, although  
11 there's some suggestion in this evidence that for what  
12 has been said in the written evidence that there might  
13 be a need to do some extensive research with respect to  
14 - I'm not quite sure what. I don't think we can take  
15 that much farther today with these witnesses.

16 But in this sort of a forum, what we've  
17 done before when individuals raise concerns such as  
18 yours about what's happening with moose and so forth,  
19 we ask MNR to give an undertaking that they will get in  
20 touch with you and address some of these concerns that  
21 you've raised.

22 The Board isn't trying to satisfy you,  
23 or tell you not to be concerned, or anything, but when  
24 opportunities like this come up, we sometimes ask the  
25 MNR people to give you the information that they have

1 on what would cause this sort of condition in moose.

2 I think the Board will ask Mr. Freidin  
3 - and the name of Mr. John McNicol comes up as being an  
4 expert at MNR - but I think the Board would ask Mr.  
5 Freidin to have the MNR people look at the testimony  
6 of these witnesses and see if they could communicate  
7 with the witnesses with respect to what kind of an  
8 understanding they might have as to these observations  
9 about cysts in moose and whether, in fact, you have any  
10 information at all about whether moose are getting  
11 smaller than they used to be. I don't know what you  
12 can do with this.

13 MR. FREIDIN: Right. I understand the  
14 concern and I've written it down myself that I was  
15 going to pass this information on to the wildlife  
16 people who I'm sure will want to address the concerns  
17 as best they can.

18 MADAM CHAIR: Okay. And the Board would  
19 like to see three letters written to these gentlemen  
20 and we would like a copy of that letter.

21 Thank you.

22 Are we ready to begin the  
23 cross-examination, Mr. Cassidy?

24 MR. CASSIDY: Yes, Madam Chair.

25

1 CROSS-EXAMINATION BY MR. CASSIDY:

2 Q. I just want to follow up, Mr. Michon,  
3 on some comments you've just made, and I think you  
4 indicated just near the end in response to Madam  
5 Chair's question --

6 MADAM CHAIR: Excuse me. Could you  
7 introduce yourself, Mr. Cassidy, to the panel.

8 MR. CASSIDY: My name is Paul Cassidy,  
9 I'm counsel for the Ontario Forest Industries  
10 Association.

11 Q. And you indicated that you are not  
12 against harvesting wood, Mr. Michon. I take it then  
13 that if someone were to suggest that the forest  
14 resources should not be used for commercial purposes,  
15 that you'd disagree with that?

16 MR. MICHON: A. Not used. Yeah, I agree  
17 with that.

18 Q. You agree that forest resources  
19 should not be used for commercial --

20 A. They should be used for commercial,  
21 yes.

22 Q. They should be used?

23 A. Yes.

24 Q. So if someone said that you should  
25 not use the forest resources for commercial purposes,

1 you would disagree with them?

2 A. I would disagree with them.

3 Q. There was a provincial park mentioned  
4 in the evidence around Fallinger Creek. Do you know  
5 where that is?

6 A. Yes, I do.

7 Q. Do you know when that was made a park  
8 or that area was made a park?

9 A. Yeah, that would be about 30 years  
10 ago.

11 Q. I see. The evidence refers to - and  
12 I appreciate that you didn't write this part - but the  
13 evidence refers to the fact tha some native people were  
14 forced to -- or displaced as a result of that becoming  
15 a park.

16 Is it fair to say that it wasn't resource  
17 development but resource preservation that caused  
18 hardship to your people there?

19 MR. MacGUIRE: A. I don't know got into  
20 it, but I could answer it partially.

21 Q. Okay.

22 A. When it became a park, about 30 years  
23 ago, at the same time they made a -- they got about a  
24 half mile square of a piece of land in the Town of  
25 Macdiarmid and when the Indians in that area took that



1 little tract of land, the MNR took back the Sand Point  
2 Reserve, which is the provincial park at the present  
3 time.

4 It was the land belonging to the Sand  
5 Point Reserve, Sand Point Indians and that's where my  
6 mother was born, and they took that land back at that  
7 time.

8 Q. About 30 years ago?

9 A. About 30 years ago.

10 Q. And it's still a park today?

11 A. As far as I know, but it's being  
12 negotiated now.

13 Q. Who wanted that area turned into a  
14 park; do you know, Mr. MacGuire?

15 A. I have no idea.

16 Q. Mr. Michon, you were talking about  
17 third-party agreements with Mr. Irwin, and you talked  
18 about your doings with Mr. Belanger and you indicated -  
19 my notes says - that the forest companies have their  
20 hands tied, and then you referred to questions from Mr.  
21 Irwin about dealing with the unions.

22 I take it you're aware that collective  
23 agreements often require, third-party agreements, to  
24 have union members operating in those agreements.

25 MR. MICHON: A. I have no beef with

1 that. He asked me what the process was, I mentioned  
2 the process.

3 Q. But that is in fact often the case;  
4 is it not, that third-party agreements require the  
5 union's consent because union members have to be used?

6 A. Absolutely.

7 Q. All right. I'm going to show you a  
8 document, Mr. Michon, about that. (handed) This is  
9 indicated on the front as an excerpt from the current  
10 collect agreement between Domtar and Local 2693 of the  
11 IWA in Red Rock, and it is an excerpt, and if you flip  
12 to the second page, which is noted as page 4, at the  
13 clause 3.01(c) about the middle of the page, do you see  
14 that, Mr. Michon?

15 A. Mm-hmm.

16 Q. It states that:

17 "The Company...", which is noted as  
18 Domtar,

19 "...and the union...", which is the union  
20 I've just referred to,

21 "...agree that an operator who enters  
22 into a third-party agreement with the  
23 company and the Ontario Ministry of  
24 Natural Resources and produces forest  
25 products for the company or any of the

1                   six negotiating companies shall have an  
2                   agreement with the union covering such  
3                   operations."

4                   So that is in fact the clause that  
5                   requires you to speak to the union to get their  
6                   agreement to the third-party agreement, do you agree  
7                   with that?

8                   A. I agree with that.

9                   Q. And in fact without that there could  
10                  be no third-party agreement; is that correct?

11                  A. That's correct.

12                  MR. CASSIDY: Now, if we could have that  
13                  marked as Exhibit 1927, I believe, Madam Chair, and if  
14                  you wish, I can describe it for you.

15                  MADAM CHAIR: I think it's 1926, Mr.  
16                  Cassidy.

17                  MR. CASSIDY: I thought that was -- I'm  
18                  sorry, Exhibit 1926.

19                  MADAM CHAIR: That's right.

20                  MR. CASSIDY: And if I could describe  
21                  that, Madam Chair.

22                  It is a four-page excerpt from the  
23                  1991-1993 Collective Agreement between Domtar Inc. and  
24                  Local 2693 of the IWA.

25

1       ---EXHIBIT NO. 1926:   Four-page excerpt from  
2                                   1991-1993 Collective Agreement  
3                                   between Domtar Inc. and Local  
                                  2693 of the IWA.

4                           MR. CASSIDY:  Q.  It would be fair to  
5       say; would it not, Mr. Michon, that if the union did  
6       not agree with that, with your entering into a  
7       third-party agreement, it would not occur?

8                           MR. MICHON:  A.  It would not occur.

9                           Q.  Right.  Now, I'm going to show you  
10      another document and this document is titled at the  
11      top, A Letter of Understanding between Domtar and the  
12      Lumber and Sawmill Workers Union, Local 2693, dated  
13      April 15th, 1986 in respect of the Red Rock Indian  
14      Band, Lake Helen Reserve, and if you just take a quick  
15      look at that, Mr. Michon, would you agree with me that  
16      this is the type of agreement that is contemplated or  
17      potentially is contemplated that a native band has to  
18      obtain with the permission of the union to enter into a  
19      third-party agreement?

20                          A.  I agree.

21                          Q.  Right.  And would you agree with me  
22      that this document is evidence then of, in fact, that  
23      agreements such as this are reached between unions and  
24      native bands to facilitate third-party agreements; this  
25      is evidence that it does happen?

1                   A. We're going to get into one there.  
2       You got some token Indians here. You got to give a  
3       little bit out.

4                   We went in and asked for the same thing.

5                   Q. With the union?

6                   A. With Domtar. We never got to the  
7       union.

8                   Q. Right.

9                   A. And we picked out areas.

10                  Q. Yes.

11                  And you are still in the process of  
12       looking for areas, is that correct?

13                  A. Yes, I am.

14                  MR. MacGUIRE: A. I'd like to continue  
15       to add to his answer on this paper here. To the  
16       previous question.

17                  Q. Just before you do that, Mr.

18       MacGuire, I am not trying to interrupt,

19                  MR. CASSIDY: But I think for the record  
20       we should get the letter of understanding marked as an  
21       exhibit, Madam Chair.

22                  MADAM CHAIR: All right. We'll mark the  
23       letter an exhibit and then you can continue.

24                  This will be Exhibit No. 1927.

25                  MR. CASSIDY: And for the record, to



1 describe it as a letter of understanding between Domtar  
2 Inc. and the Lumber and Sawmill Workers Union dated  
3 April 15, 1986, and it's two pages, Madam Chair.

4 MADAM CHAIR: Thank you.

5 ---EXHIBIT NO.1927: Two page letter of understanding  
6 between Domtar Inc. and the lumber  
7 and saw mill workers union dated  
8 April 15, 1986.

8 MR. CASSIDY: Q. Go head Mr. MacGuire.

9 MR. MacGUIRE: A. Yes. This paper here,  
10 it's perfect, you know. When you bring this in here,  
11 this is primarily the reason that we're here.

12 We live and work in our traditional  
13 eastern part of Lake Nipigon where we're working right  
14 now, and what this gentleman just brought in with these  
15 papers here he's showing us a clear form of government  
16 that the native have to deal with to work their own  
17 property, their own land, and this is evidence of it.  
18 I don't know how you can get it any better.

19 Q. What do you mean --

20 A. It's a third form of government.

21 Like we've been saying we wanted to go in cutting, cut  
22 pulp, and then Domtar's got cutting rights. So now the  
23 native people, when they want to cut, they got to make  
24 an agreement with Domtar, which is a third form of  
25 government, to govern the Indians not to use the land

1 properly. To keep the Indians away from using the  
2 land. So in reality Domtar becomes a third form of  
3 government.

4 Q. Would you agree, Mr. MacGuire, that  
5 it's not just Domtar, that in fact it's the union that  
6 would have the final say over this and not Domtar?

7 A. I would agree that the union is  
8 probably the fourth part. Domtar's the third and the  
9 union's the fourth part.

10 Q. Thank you.

11 MR. MacGUIRE: That's the reason we're  
12 here, Madam Chair.

13 MADAM CHAIR: Excuse me, Mr. Cassidy, I  
14 don't want to interrupt you, but by saying that's the  
15 reason you're here --

16 MR. MacGUIRE: Well part of the reason.

17 MADAM CHAIR: Part of the reason. And  
18 that is that you would like to have a commercial  
19 interest. You would like to use the forest as well for  
20 logging and whatever else you want?

21 MR. MacGUIRE: Not just myself. I  
22 probably will never cut pulp. But the thing that I  
23 wanted to stress is in order for us to use that  
24 property or use that part of the forest, we can't go to  
25 the federal government or the provincial government.

1 We have to go to the MNR and in turn we have to make a  
2 deal with the company that's got the monopoly over the  
3 area in order for us to get any work. And in order to  
4 get that work done we have to make an agreement with  
5 the union. And if we don't follow all those guidelines  
6 you just don't work.

7 MR. MARTEL: And this is on land you  
8 consider traditionally your own?

9 MR. MacGUIRE: That's right. And the  
10 land that -- I'm familiar with the land that the  
11 Nipigon Band is working. That's part of our  
12 traditional hunting grounds and working grounds.

13 MR. CASSIDY: Q. Now, Mr. Michon, you  
14 were talking about an area around Foam Lake that you  
15 say was like a chunk of the moon.

16 My information is that that area was  
17 predominantly strip cut and not clearcut. Do you have  
18 any information on that?

19 MR. MICHON: A. On the edges of it it  
20 is. They have a nice chunk of strip in the middle. I  
21 agree with that. But out on the edges of it.

22 Q. Do you know who the management  
23 forester was who was responsible for those areas when  
24 they were being operated?

25 A. No, I don't.

1 MR. MacGUIRE: A. Would that be --

2 Q. I'm sorry, Mr. MacGuire?

3 A. I was just thinking out loud. I was  
4 just thinking out loud, sorry.

5 Q. And with respect to Cosgrove Lake,  
6 you described that as a piece of the moon and my  
7 information is also that in the area there are  
8 significant strip cuts in that area. Do you have any  
9 information on that?

10 MR. MICHON: A. Large strip cuts.

11 Q. And not clearcuts?

12 Do you know who George Merrick is?

13 A. Yes, we do.

14 Q. My information is that he was the  
15 management forester in those areas at the time that  
16 you're calling a chunk of the moon. Do you know that?

17 A. No, I don't.

18 Q. You don't know anything about these  
19 stocking surveys that have been carried out in that  
20 area?

21 A. No, I don't.

22 Do you know Theren McCreedy?

23 A. Yes, I know him. Yes.

24 Q. Did you know that he asked Mr.

25 Belanger for allocations of fuel wood in the Camp 75

1 area?

2 A. I heard of it, yes.

3 Q. I'm sorry?

4 A. I wasn't involved in it. I heard of  
5 it, yes.

6 Q. And that that fuel wood allocation  
7 was granted to him and it was in fact right beside a  
8 road? Do you know that?

9 A. No, I don't know that.

10 MR. CASSIDY: Madam Chair, I would like  
11 to file the answers to the interrogatories provided to  
12 the OFIA from the OMAA and perhaps that could be  
13 Exhibit 1928.

14 MADAM CHAIR: That's correct, Mr.  
15 Cassidy.

16 ---EXHIBIT NO. 1928: Answers to the interrogatories  
17 provided to the OFIA from the  
OMAA.

18 MR. CASSIDY: Q. If you flip to the 5th  
19 page of this collection of interrogatories in Exhibit  
20 1928.

21 MADAM CHAIR: Excuse me, Mr. Cassidy,  
22 could you read out the numbers in this?

23 MR. CASSIDY: Certainly. It's  
24 interrogatories 1 through 5, Madam Chair.

25 MADAM CHAIR: Thank you.



1 MR. CASSIDY: For OMAA's panel 2.

2 Q. And if you flip to the 5th page, Mr.  
3 Michon, you will see a question and an answer there. I  
4 don't know whether you were involved in answering these  
5 interrogatories. You may want to take the time to read  
6 it. It's interrogatory number 5. Do you see that?

7 MR. MICHON: A. Hm-hmm.

8 Q. Do you wish time to take a read  
9 through it? Go ahead.

10 Mr. Michon, the letter refers to an  
11 MNR -- I'm sorry the answer to the interrogatory in the  
12 third paragraph under 5(a) refers to.

13 "MNR policy requiring the holder of a  
14 third party contract pay in advance  
15 Workers Compensation premiums."

16 Now, Mr. Simmons, you indicated that  
17 you've wanted involvement in the forest sector so you  
18 may be able to help out on this, so I will leave it to  
19 you people to answer.

20 But as I understand it, that policy has  
21 in fact, as is illustrated here, prevented some third  
22 party agreements from actually being signed. Is that  
23 your understanding?

24 MR. MICHON: A. I don't know what their  
25 finances are. I'm not affiliated with this local. I'm

1       sorry, but just -- I never knew about this. I heard of  
2       it, but I do not know what their finances are.

3                   Q. Mr. Simmons, do you?

4                   MR. SIMMONS: A. No, I don't know.

5                   Q. Are you aware of this problem with  
6       the Workers Compensation premiums standing in the way  
7       of third party agreements, Mr. Michon? Not this  
8       particular problem but just that problem in general?

9                   MR. MICHON: A. I pay my workers -- my  
10       compensation. I never had a problem with that.

11                  Q. Are you aware that this is the type  
12       of problem which ties the hands of companies like  
13       Domtar when they try to enter into agreements?

14                  A. No, I don't.

15                  Q. Did now that Mr. McCrady attended the  
16       working -- I'm sorry the open house for the Lake  
17       Nipigon Forest in June of 1990?

18                  A. No, I didn't.

19                  Q. So you weren't aware that it was in  
20       fact at the open house that he reached the agreement  
21       with Mr. Belanger on the fuel wood?

22                  MR. IRWIN: If he wasn't at the open  
23       house then he wouldn't be aware of it. If he wants to  
24       put evidence to counsel then he should take the stand  
25       and I can cross-examine him.

1 MR. CASSIDY: Q. I take it the answer to  
2 my question is no?

3 MR. MICHON: A. Pardon?

4 Q. The answer to my question is no, you  
5 weren't aware of that either?

6 A. No, I wasn't.

7 MADAM CHAIR: Excuse me, Mr. Cassidy, the  
8 Board has a question.

9 Are you affiliated with OMAA?

10 MR. MICHON: Yes, I am.

11 MR. MacGUIRE: Yes, I am.

12 MADAM CHAIR: Is your affiliation through  
13 a local so-called?

14 MR. MICHON: It's a local, yes.

15 MADAM CHAIR: Now what zone is Macdiarmid  
16 in?

17 MR. MICHON: Zone 2.

18 MADAM CHAIR: Zone 2.

19 And how many locals are there in Zone 2?

20 MR. MICHON: Oh, I couldn't tell you.

21 MR. SIMMONS: I believe there was 28  
22 locals.

23 MADAM CHAIR: 28 locals. How many locals  
24 in the McDermid/Beardmore area?

25 MR. MICHON: There's two in Macdiarmid

1 and one in Beardmore.

2 MADAM CHAIR: Two in Macdiarmid and one  
3 in Beardmore.

4 MR. SIMMONS: That's Highway 1117 and  
5 Macdiarmid local.

6 MADAM CHAIR: Okay. Thank you.

7 Please go ahead, Mr. Cassidy.

8 MR. CASSIDY: Thank you, Madam Chair. I  
9 have just a few questions remaining.

10 Q. With respect to Kitto-Kilkenny  
11 township, that's the Nipigon Crown working circle, is  
12 that right, Mr. Simmons?

13 MR. SIMMONS: A. I believe so.

14 Q. Essentially one in the same thing?

15 A. Hm-hmm.

16 Q. And you've harvested there in the  
17 past, Mr. Michon?

18 MR. MICHON: A. Yes, I have.

19 Q. And you have an ongoing interest in  
20 harvesting there whatever you can get, is that correct?

21 A. Yes.

22 Q. Mr. Nenakanagis, I apologize for --  
23 if we can call him Sylvanus I'll probably be better  
24 off. He complained about that in his witness  
25 statement. About harvesting going on there, but I take

1 it you have no objection to harvesting in  
2 Kitto-Kilkenny, do you?

3 A. No. Could I clarify that?

4 Q. Go ahead.

5 A. Mr. Nenakanagis -- actually -- like  
6 that licence was made out to me.

7 Q. The licence that Sylvanus is  
8 complaining about?

9 A. That's right.

10 Q. Was in fact made out to?

11 A. It was made out to me through Rocky  
12 Bay Band which we never fulfilled for financial  
13 problems I must add.

14 Mr. Nenakanagis was on his trap line, I  
15 do believe - I'm not too certain what his concern was  
16 but -, it was on the trapping issue - and when the  
17 final number came down he came and seen me and we sat  
18 down and tried to resolve the best way to cut it  
19 without interrupting his trap line.

20 And that was the complaint. Was he had a  
21 concern of where the road was going to go in, which we  
22 settled. He had a concern of how much timber we were  
23 going to take out and what could we leave. We never  
24 got to the process of going to the MNR and proposing  
25 that we leave something there.



1 Q. Okay. Thank you for that  
2 clarification.

3 If I could just have a minute.

4 MR. MARTEL: Could I ask a question --

5 MR. CASSIDY: Certainly.

6 MR. MARTEL: -- because something just  
7 dawned on me.

8 Any third party agreements then, is it  
9 left to the individual who's got the agreement to go to  
10 negotiate with a trapper in an area on the best way of  
11 protecting the trap line or did you just do that  
12 because you knew each other?

13 MR. MICHON: I would have done it for  
14 anybody.

15 MR. MARTEL: Okay, you might have done it  
16 for anybody but --

17 MR. MacGUIRE: Domtar don't do it nor  
18 does MNR do it. They don't do it either.

19 MR. CASSIDY: Q. Mr. Michon, that was  
20 not a third party agreement on the Nipigon Crown, was  
21 it?

22 MR. MICHON: A. No, that was a one on  
23 one.

24 MR. MARTEL: What I'm driving at, Mr.  
25 Cassidy, is that let's say that a small independent

1 gets an agreement, third party or otherwise. It's up  
2 to the -- is it up to the third party to go to notify,  
3 for example a trapper, that under the annual work  
4 schedule that might be there that in fact it's up to  
5 the third party to notify or is it up to MNR or is it  
6 up to the industry to notify those people who might be  
7 affected by the harvest for that Dueck year?

8 MR. MacGUIRE: In the area that we're  
9 talking about the only way that the trapper finds out  
10 that there's going to be harvesting done on his trap  
11 line is when the roads start going in and machines move  
12 in.

13 MR. MARTEL: But we're told you're  
14 supposed to get a notice wherever possible that an  
15 annual work schedule -- people are supposed to be  
16 notified that harvesting operation's going to take  
17 place.

18 I'm just trying to find out whose  
19 responsibility -- it can't be the third party who's a  
20 small independent as well to try to locate who might be  
21 responsible or might hold the trap line for that Dueck  
22 area.

23 Maybe someone can answer it or help me  
24 out on this one as to who the ultimate responsibility  
25 it is for contacting those conditions, the trapper in

1 the area, about the harvest that is going to occur.  
2 Would that be MNR who would have to be responsible? On  
3 Crown land I'm sure it is, but on an FMA who's  
4 responsible in an agreement like that?

5 MR. CASSIDY: Well, Mr. Martel, we had a  
6 lot of evidence in planning and --

7 MR. MARTEL: Yes, I know.

8 MR. CASSIDY: -- and it's been a long  
9 while ago for both of us. So I can only suggest that  
10 the proponent might be able to answer that question.  
11 Either in the course of argument, if you want an  
12 undertaking from them --

13 MR. MARTEL: I just want a clarification.  
14 Let's not make a big thing out of it.

15 MR. FREIDIN: I'll provide you with the  
16 information. I can't recall either and I don't have  
17 anybody here involved in timber management planning.

18 MADAM CHAIR: Thank you, Mr. Freidin.

19 MR. FREIDIN: The question is who has the  
20 responsibility for providing notice or including in the  
21 annual work schedule in the areas which are going to be  
22 harvested by a third party?

23 MR. MARTEL: Yes. Like who notifies the  
24 people who are affected?

25 MR. FREIDIN: Okay. That should be a

1 very easy question to get that answer to.

2 MR. MARTEL: That's so long ago.

3 MR. CASSIDY: I have no further  
4 questions.

5 MADAM CHAIR: You're finished, Mr.  
6 Cassidy?

7 MR. CASSIDY: Yes, Madam Chair. Thank  
8 you.

9 MADAM CHAIR: All right. Mr. Freidin,  
10 are you ready to begin your --

11 MR. FREIDIN: Yes.

12 MS. GILLESPIE: Madam Chair, just before  
13 Mr. Freidin --

14 MADAM CHAIR: Oh, excuse me, Ms.  
15 Gillespie, yes?

16 MS. GILLESPIE: I would just like to  
17 point out to the Board that the interrogatories and  
18 responses to MOE are already filed as Exhibit 1915  
19 because they're on the same page as the Panel 1  
20 interrogatories.

21 And we don't have any further  
22 cross-examination.

23 MADAM CHAIR: Thank you. Mr. Freidin,  
24 how long will you be in cross-examination?

25 MR. FREIDIN: I'm not going to be too

1 long. I think I may be an hour and a bit.

2 MADAM CHAIR: All right. Well then, it  
3 looks like we'll be finished this afternoon.

4 MR. FREIDIN: We'll have no problem  
5 making the 4:45 plane, if that's one of your concerns.

6 MR. MARTEL: Well, no, some of us have  
7 the 4:15.

8 MR. FREIDIN: You'll have no problem  
9 making the 4:15 either, Mr. Martel.

10 MADAM CHAIR: Mr. Freidin, our court  
11 reporters would like a break and then we'll come back  
12 and finish your cross-examination and then we'll  
13 finished with the witnesses, and that will be the end  
14 of the case, the end of the day.

15 The Board will be back in 20 minutes.

16 ---Recess at 11:30 a.m.

17 ---On resuming at 11:50 a.m.

18 MADAM CHAIR: Shall we get started, Mr.  
19 Freidin?

20 MR. FREIDIN: Sure.

21 CROSS-EXAMINATION BY MR. FREIDIN:

22 Q. I wanted to follow up on a question  
23 that the Chair asked and I think they asked -- the  
24 question was to you, Mr. MacGuire, about the areas that  
25 you've stopped picking in.



1                   Ms. Koven asked how many years would you  
2 wait until you went back and you said that we haven't  
3 gone back in because of the spraying.

4                   Now, are there areas which have been  
5 sprayed in the past, two, three, four, five years ago  
6 and no spraying has taken place since, that you've gone  
7 back into?

8                   MR. MacGUIRE: A. Not that I know of.  
9 There probably has been, but I really don't know  
10 because when they do spray, they put the signs up and  
11 almost immediately after the spraying is done, within a  
12 week or two, the signs are gone for some reason or  
13 another. So I don't know -- I can't really say.

14                  Q. All right. Have you gone back into  
15 areas which have been cut-over.

16                  A. Yes.

17                  Q. Well, are there any areas where  
18 they've been cut-over, it's been sprayed, you've seen  
19 the signs, but a couple of years later you've gone back  
20 into that area again to pick blueberries?

21                  A. No, not to my knowledge, sir. Once I  
22 know the area is sprayed, I never go back in regardless  
23 of the harvest.

24                  Q. Okay. Ms. Koven also was asking some  
25 questions about whether any of you had ever gone to MNR

1 and said, don't cut here, or don't cut there, and you  
2 were concerned about certain things.

3 Mr. MacGuire, you didn't offer any  
4 evidence in that regard. Am I correct that you did  
5 visit the MNR office --

6 A. But not under the heading you just  
7 mentioned.

8 Q. All right. You visited the MNR  
9 office to get information on something other than  
10 cutting?

11 A. Yes.

12 Q. And you had gone there in order to  
13 get information about spraying; is that correct?

14 A. That is correct.

15 Q. And am I correct that that occurred  
16 in June of this year?

17 A. June -- March and June.

18 Q. All right. And I understand that  
19 your concern at that time was about the possible  
20 impacts of your berry picking as a result of the  
21 planned spray operations?

22 A. That's correct.

23 Q. And did you request information about  
24 the exact locations of the spray and the timing of the  
25 spray?

1 A. I did.

2 Q. And did you receive that information?

3 A. I did.

4 Q. And you received that information by  
5 way of --

6 A. Handout information, he just handed  
7 over the information to me.

8 Q. Right. And the information you  
9 received including receiving maps of the areas to be  
10 sprayed?

11 A. That is correct. I might add that  
12 the areas that they did spray didn't affect this year  
13 and I'll be back again to see if the areas are going to  
14 be affected next year.

15 Q. I understand that what happened was  
16 that you ended up deciding to pick in an area south of  
17 that area because the berries were ripe a little  
18 earlier than normal?

19 A. Yeah, right. So the areas that they  
20 had planned to spray, there was no -- the harvest  
21 wasn't good in that area because it was clearcut too  
22 much in the centre and stuff, you know, so I didn't  
23 bother with it.

24 Q. All right. Now, I understand that  
25 Mud River is a Metis community.

1 A. That's right.

2 Q. And are you aware of the involvement  
3 of the Mud River community with the Nipigon District in  
4 relation to the 1991 aerial tending program where areas  
5 in fact were deleted from this proposed spray, where  
6 buffers were changed as a result of the input of that  
7 community, and where the timing of the spray was also  
8 postponed as a result of the input of that community;  
9 are you aware of those circumstances?

10 A. No, I was not.

11 Q. Assuming that all those circumstances  
12 did in fact occur, would you agree that that would be  
13 an example of where a Metis community, at least in one  
14 respect, had some positive impact on the decisions  
15 which were made in relation to spraying?

16 A. Right, but I can also relate that  
17 there was some people in Macdiarmid picking blueberries  
18 and they were sprayed right over top of them.

19 Q. When was that?

20 A. That was a couple of years ago.

21 Q. How many years ago?

22 A. Two or three years ago.

23 Q. Did you report that to the MNR?

24 A. No, I just heard it from the people.  
25 They gave them their own reporting on it or whatever, I

1 didn't follow it up.

2 Q. Okay.

3 A. I wasn't one of them.

4 Q. Now, in relation to this issue of  
5 avoiding eating the heart, liver and kidneys of moose,  
6 I just wanted to touch on that for a moment. I think  
7 one of you indicated that you learned of that through  
8 the newspaper; is that right?

9 MR. MICHON: A. I didn't mention the  
10 newspaper.

11 Q. Now, I have a document here,  
12 gentlemen, it's a News Release from the Ministry of  
13 Natural Resources, it's dated September the 18th, 1987  
14 and it is in relation to the following - this is the  
15 title on it - Ministry of Natural Resources warns  
16 Ontario hunters not to eat moose kidneys and liver or  
17 deer kidneys.

18 Now, I would like to file a copy of that  
19 and I'll give you a copy of that as well. (handed)

20 And this document, gentlemen, contains  
21 information is one which speaks not of spraying or  
22 herbicides or insecticides, but rather is one which is  
23 saying this problem is one which is believed to be  
24 connected to the accumulation of cadmium which is a  
25 natural occurring chemical in the environment.



1                   Now, could you just take a look at that  
2                   and confirm for me, perhaps with the aid of looking at  
3                   this, whether in fact the information that you were  
4                   talking about, the warning that you received, was this  
5                   warning, the warning in relation to cadmium, not a  
6                   warning that was related to the spraying of herbicides  
7                   or insecticides?

8                   A. We never even suggested that.

9                   Q. Well, if you didn't -- all right. If  
10                  you didn't, then I misinterpreted your evidence, but  
11                  could we then confirm, for my benefit, that the  
12                  warnings that you did receive in relation to eating  
13                  certain organs of moose and deer was not in relation to  
14                  herbicides or insecticides, but rather was in relation  
15                  to cadmium as set out in this particular News Release?

16                 MR. MacGUIRE: A. We have no idea of how  
17                  we could accurately answer that. I can't say that it  
18                  was because of this and not the other, I'm not a  
19                  scientist.

20                 Q. All right.

21                 A. I'm sorry, but I don't like to be --

22                 Q. Am I correct then that none of you  
23                  then can recall specifically whether the warning that  
24                  you read in the newspapers was one in relation to  
25                  herbicides and insecticides or whether in fact it was

1 in relation to cadmium; it could have been any one of  
2 those?

3 A. I don't remember.

4 MR. MICHON: A. In the earlier part of  
5 my evidence on that I didn't even suggest of what did  
6 it, we suggested that it was something - I think you'll  
7 find it in my statement - that it was done by acid rain  
8 or some other stuff.

9 MR. MacGUIRE: A. Yes. And the  
10 information I received wasn't from the newspaper, it  
11 was from an MNR open house on moose and stuff and it  
12 didn't, I don't remember the name, but they didn't say  
13 that. The cycle that I mentioned, that's near as I can  
14 remember, how they got the cysts in them.

15 Q. All right.

16 MR. FREIDIN: Could that be marked as the  
17 next exhibit, Madam Chair.

18 MADAM CHAIR: Yes. That will be Exhibit  
19 1929.

20 ---EXHIBIT NO. 1929: MNR News Release dated September  
21 the 18th, 1987 titled: Ministry  
22 of Natural Resources warns  
23 Ontario hunters not to eat moose  
24 kidneys and liver or deer  
25 kidneys.

24 MR. FREIDIN: Q. Now, gentlemen, I've  
25 put up a map and this a map which has - you'll have

1 a chance to come up here and take a look at it - it's  
2 got Lake Nipigon in here and it's entitled: Herbicide  
3 Spray Blocks in Nipigon District and then refers to the  
4 specific forest management units where it has  
5 information for Auden Lake, Nipigon Forest,  
6 Kitto-Kilkenny, Nipigon Bay and Nipigon Crown  
7 Management Units.

8 And what this particular map shows is in  
9 fact the areas where herbicides have been sprayed  
10 during the five-year period in those management units  
11 from 1986-1991.

12 Now, I'm not sure whether you come up  
13 here -- maybe you should come up here and take a look  
14 at this.

15 MR. MICHON: A. I'll do more than, I'll  
16 go to the ministry in Nipigon and I'll get the map  
17 myself. I'm very interested in that.

18 Q. Just so -- and on the assumption that  
19 this information is correct, it in fact identifies in  
20 colours the areas where spraying has occurred in those  
21 years. And could someone come up and show me where  
22 Macdiarmid is, the area we're talking about?

23 Stand over here, Mr. MacGuire, so the  
24 Board can see when you point it out. Can you stand  
25 over here.

1 MacGUIRE: A. (Indicating)

2 Q. So we have Macdiarmid here. I'm just  
3 going to circle Macdiarmid so it's easy to see on the  
4 eastern shores. And if we find -- where' Beardmore?

5 A. It would be up here.

6 Q. All right. Beardmore is just north  
7 of there. So basically Macdiarmid is in the southern  
8 of the Kitto-Kilkenny area, and Beardmore is just north  
9 of it.

10 And Highway 11 -- that other community is  
11 on Highway 11.

12 A. Mm-hmm.

13 Q. And is that community in any  
14 particular location on Highway No. 11?

15 A. I wasn't following you, I was  
16 thinking about something else.

17 Q. We've got Macdiarmid, Beardmore, and  
18 then you said the other community, the community of  
19 what? All right. I'm sorry, forget that. Okay.

20 So if we look at this, and this  
21 information is correct, the areas which have been  
22 sprayed near Macdiarmid and Beardmore, there's a small  
23 area here along Highway 11 which runs between, there's  
24 an area to the east in the centre--

25 A. Mm-hmm.

1 Q. --of Nipigon/Domtar and then we have  
2 other areas which have been spread out.

3 A. I'm more or less interested in this,  
4 how much area around trap line areas has been sprayed.

5 Q. All right. You're indicating that  
6 you have been involved in a trap line --

7 A. I'm operating a trap line in this  
8 area here.

9 Q. Just south of Hogarth?

10 A. Yeah, in this area.

11 Q. Okay. I think that's good. Thank  
12 you very much. It's my information, gentlemen, that  
13 the whole area which was sprayed in all of those  
14 management units -- pardon me, in the Nipigon Forest,  
15 only in the Nipigon Forest was 4,293 hectares.

16 Are you able to confirm or deny the  
17 accuracy of my information?

18 A. No, I'm not able to.

19 Q. It's also my information that that  
20 particular number constitutes .7 of 1 per cent of the  
21 land area of that particular management unit. Are you  
22 able to deny or confirm the accuracy of my information?

23 A. No, I'm not.

24 Q. All right.

25 MADAM CHAIR: Excuse me, Mr. Freidin.



1 Was that of the Lake Nipigon Crown Management Unit?

2 MR. FREIDIN: No, no. That is in the  
3 Nipigon Forest. It's the FMA, it's the Lake Nipigon  
4 Forest/Domtar.

5 MADAM CHAIR: FMA?

6 MR. FREIDIN: FMA. And could that map be  
7 marked as the next exhibit.

8 MADAM CHAIR: This map will be Exhibit  
9 1930.

10 ---EXHIBIT NO. 1930: Map titled: Herbicide Spray  
11 Blocks in Nipigon District.

12 MR. FREIDIN: Q. This area that has been  
13 mentioned in relation to harvest opportunities of  
14 Kitto-Kilkenny, am I correct that that is an area which  
15 has been --

16 MADAM CHAIR: Excuse me, could you spell  
17 that for us, Mr. Freidin.

18 MR. FREIDIN: Kitto-Kilkenny.  
19 K-i-t-t-o - K-i-l-k-e-n-n-y.

20 MADAM CHAIR: Thank you.

21 MR. FREIDIN: Q. Now, that's the area  
22 which is, as we said, right here on the eastern shores  
23 of Lake Nipigon and Macdiarmid is in that particular  
24 area and Beardmore is just north of the northerly  
25 boundary of that area.

1 Am I correct that that is an area which  
2 has been set aside as part of the Nipigon Crown  
3 Management Unit for the exclusive use of native people?

4 MR. MICHON: A. Yes, it is.

5 MR. MARTEL: Can I get a size from that  
6 area, Mr. Freidin?

7 MR. FREIDIN: I don't have the area but I  
8 can undertake to provide you with that information.

9 MR. MARTEL: I'm just trying to put that  
10 in the context of the figures you gave us just a while  
11 ago on the size of the area which has been sprayed,  
12 just to get some idea of --

13 MR. FREIDIN: The size of the area -- oh,  
14 I see what you're saying.

15 MR. MARTEL: The size of seven tenths of  
16 one per cent, and I'm just wondering what area this  
17 encompasses.

18 MR. FREIDIN: Well, maybe I can give you  
19 that information before we're finished.

20 MR. MARTEL: Sure.

21 MR. FREIDIN: I just haven't got it right  
22 off the top of my head.

23 MR. MARTEL: That's fine.

24 MR. FREIDIN: Q. Now there was some  
25 evidence given in relation to the maps of the

1 traditional areas which form part of report number 1.

2 Could you turn, please, to page 4 and 5  
3 of report number 1. Do you have that gentlemen?

4 MR. MacGUIRE: A. Page 4 and 5?

5 Q. Well page 4 is where were going to  
6 start. It's got interview format just near the top of  
7 the page.

8 A. Hm-hmm.

9 Q. And you'll see that second paragraph  
10 under that heading, interview format, it talks about  
11 the land area currently used by the respondents, and  
12 you'll that see there's a discussion of these maps.

13 And would you just confirm for me that it  
14 is your understanding -- confirm for me whether you  
15 agree with the statement contained in this report.

16 At the bottom it says,  
17 "In the case of this study, respondents  
18 were asked to indicate the areas they  
19 have hunted, fished, trapped natural  
20 resources at any time during their  
21 lifetimes."

22 Are you able to confirm the accuracy of  
23 that and perhaps before you answer the question, keep  
24 your finger there, turn to page 8.

25 Page 8, under conclusions says in the

1 first sentence:

2 "The intensity of the land use and the  
3 overlap of land uses by specific  
4 individuals are not indicated."

5 Now when I took those two areas together  
6 I understood that to mean that for the purposes of this  
7 exercise, for doing these maps, when the people were  
8 interviewed the maps were created even if a person that  
9 had only gone into an area once in their entire  
10 lifetime it gets included in the map. Now that's how I  
11 understand the reports. Can you confirm the accuracy  
12 of that?

13 A. No, I cannot. I would never say if I  
14 went into some place just once then I wouldn't say that  
15 my -- I'd have to go all over Canada and say Canada  
16 belonged to me because I was all over Canada once.

17 Q. That's fair.

18 And Mr. Michon or Mr. Simmons, are you  
19 able to confirm the accuracy of those Dueck portions of  
20 the witness statement?

21 You may not have been involved in that so  
22 you might not know. So if you don't know that's fine.

23 MR. MICHON: A. I don't know.

24 Q. All right.

25 Mr. Simmons?

1 MR. SIMMONS: A. I don't know.

2 Q. Okay. Thank you .

3 MR. FREIDIN: Madam Chair, I would like  
4 to file as the next exhibit those interrogatories asked  
5 by MNR, but only as they relate to report number 2. As  
6 I understand it reports number 1 and 3 are not going to  
7 form part of the evidence unless we have a witness to  
8 speak to them and I'll reserve my right to file the  
9 interrogatories or any interrogatories in relation to  
10 them if it becomes evidence.

11 So these interrogatories from MNR in  
12 whole of panel number 2 are interrogatories 19, 22 and  
13 23.

14 MADAM CHAIR: That will be Exhibit 1931.

15 ---EXHIBIT NO. 1931: Interrogatories from MNR in whole  
16 of panel No. 2, interrogatories  
17 19, 22, 23.

18 MADAM CHAIR: And to clarify your  
19 understanding of what we will or will not be accepting  
20 as evidence, Mr. Freidin, the Board understands and  
21 from its own reading in report number 1, there are  
22 general statements which these witnesses have said with  
23 respect to where they live and the history of their  
24 communities that is also contained in report number 1.  
25 So where that's the case we accept that as evidence.



1 MR. FREIDIN: Thank you.

2 Could you turn to page 6 of report No. 2,  
3 please.

4 Could I just have one moment, Madam  
5 Chair. As a result of just these three witnesses being  
6 here I may not have to ask some questions.

7 I think we can move on.

8 Q. On page 10, in relation to  
9 employment, I refer you to the second paragraph. You  
10 indicate that:

11 "Certain findings indicate that timber  
12 industry does not provide full-time work  
13 to the Metis and off reserve Indian  
14 communities of Beardmore and McDermid.  
15 And while this may be caused by the  
16 absolute unavailability of work, the  
17 desire of Aboriginal people to combine  
18 seasonal wage work with wildlife  
19 harvesting as a means of gaining a  
20 livelihood may also be a contributing  
21 factor."

22 Are any of you able to expand on that  
23 last comment?

24 MR. MICHON: A. I can't.

25 MR. MacGUIRE: A. I've never interrupted

1 my work to go hunting. I did it on my -- you know,  
2 because I wanted to go hunting or trapping. I never  
3 quit a job because -- to do that.

4 Q. Thank you.

5 Mr. Michon, I have a series of questions  
6 for you relating to your evidence which starts on page  
7 15 of the witness statement.

8 You have identified, starting on page 15,  
9 eight separate impacts or fact situations. In relation  
10 to the first one, which is some time ago, 1969 and  
11 1974, I've had occasion to examine the cutover maps for  
12 Fullerton lake and Dodd Lake and they indicate that  
13 there was a reserve between the cut and the water's  
14 edge and because of that I'm just wondering whether you  
15 could comment on -- it seems to contradict the  
16 information that you have there. That clearcutting was  
17 to the edge of those lakes.

18 MR. MICHON: A. Okay. I'm going to get  
19 into this one.

20 I do believe you got this report before I  
21 did. A matter of fact I know you had this report. We  
22 never got it. We got one book of this shortly before  
23 this hearing. I had to borrow this one to come to this  
24 hearing.

25 Some of these statements that are on

1       there is not what I said. It was put on there.

2                   Q. Now are you telling me -- let me ask  
3       you, Mr. MacGuire, are there statements in here which  
4       are attributed to you but which were not verified by  
5       you before they were submitted, I guess, by Mr. Reid as  
6       evidence?

7                   MR. MacGUIRE: A. Yes.

8                   MR. IRWIN: We stand by it.

9                   For the record, we stand by all of the  
10       oral evidence today. That's the way we set out to  
11       present our case and it stands.

12                  MR. FREIDIN: And I'm not quarrelling  
13       with your oral evidence.

14                  Q. But again to the extent that the  
15       Board may in fact now look at these reports,  
16       particularly as they relate specifically to your  
17       situations, what's the error in relation to number 1?

18                  MR. MICHON: A. Well I never made the  
19       statement that it was cut up to the edge.

20                  Q. But the decline, the comment about  
21       the decline in certain wildlife is accurate?

22                  A. That's accurate.

23                  Q. Okay. That's fine. Thank you.

24                  MADAM CHAIR: Excuse me, Mr. Michon, does  
25       that apply to the reference to clearcutting to the edge

1 of these lakes in points 1, 2 and 3.

2 MR. MICHON: Just about all of them. We  
3 picked out some lakes that were clearcutted up and we  
4 took photographs of them but they're not any of these.

5 MADAM CHAIR: All right.

6 So your evidence is that it is incorrect  
7 what's stated on page 15 and that in fact you don't --  
8 you haven't observed clearcutting to the edges of  
9 Fullerton Lake or Dodd Lake or Eaton lake?

10 MR. MICHON: No.

11 MADAM CHAIR: Or to Cosgrove Lake?

12 MR. MICHON: They touched on Cosgrove,  
13 yes.

14 MADAM CHAIR: So you did see clearcutting  
15 to the edge of Cosgrove Lake?

16 MR. MICHON: Up to Cosgrove.

17 MADAM CHAIR: And to the end of Crooked  
18 Green Creek?

19 MR. MICHON: Hm-hmm.

20 MADAM CHAIR: And did you see  
21 clearcutting then?

22 And in both those cases those were  
23 clearcuts done in the '50's and maybe in the '60's.

24 MR. MICHON: Yeah.

25 MADAM CHAIR: Have you seen recent

1 examples of clearcutting to the edge of the lake?

2 MR. MICHON: It depends on what MNR calls  
3 a lake.

4 We just went to the MNR and got some  
5 information from them regarding some lakes that were  
6 cut right up to the edge. They say there's no fish in  
7 them and this is not moose country sort of a thing.  
8 There's no reason for a concern.

9 So the day we went up to take a look at  
10 these lakes we brought Mr. Cizek up and Joe brought his  
11 camera along and this one lake that has no moose in it  
12 two of them were swimming in the middle of it.

13 Yes, we have some but they're not what  
14 MNR -- or I guess MNR doesn't call lakes.

15 MR. MacGUIRE: And one of the lakes we  
16 did go up to I fished in and you can stand on the shore  
17 and catch small northern pike just about every cast and  
18 they clearcut it right up to the lake and they come  
19 outside of it.

20 MADAM CHAIR: Mr. Freidin?

21 MR. FREIDIN: Q. Can you give me the  
22 name of the lake?

23 MR. MICHON: A. There's actually no name  
24 for it.

25 Q. It's one of those things called no



1 name lake?

2 MR. MacGUIRE: A. I can give you the  
3 area.

4 MR. MICHON: A. I can give you the area  
5 pretty fast.

6 MR. MacGUIRE: A. I can do better than  
7 that. I can take you up there.

8 Q. Only if you tell me where all the  
9 good fish are.

10 A. And I'll even show you that. I don't  
11 hold that back for anything. If I know that the lake  
12 has good fishing I tell everybody.

13 Q. Well can you pinpoint it for me?

14 A. I don't know if that area will be  
15 large enough.

16 Q. Have you got a red pen?

17 A. I will try my best.

18 Q. So you have made a little red dot  
19 here just to the northeast of Squawk Lake.

20 MADAM CHAIR: Could you repeat that, Mr.  
21 Freidin, for the court reporter?

22 MR. FREIDIN: The red dot on the map is  
23 to the northeast, about an inch to the northeast of  
24 Squawk Lake.

25 MR. MARTEL: Can I ask you your opinion,

1 all of you? If you have these little lakes that don't  
2 have fish and are not supposed to -- I mean some of  
3 these lakes plan to tell you you can cut right to the  
4 shore line depending on a whole series of factors.

5 But in your life, in terms of what you  
6 do, these little lakes, how do the cutting rate from  
7 the shore affect the -- not only the aquatic life but  
8 the other shore animals that might utilize that area?

9 And we've heard, for example, that you  
10 can cut it just under 10 acres. I think you can cut  
11 right to the shore providing certain things. It's not  
12 a fish habitat and so on. I'm not going to go into all  
13 the specifics. But in general terms, what's your  
14 opinion about cutting right around all these small  
15 lakes even if they don't have supposed fish life in  
16 them. The effects out there on --

17 MR. MacGUIRE: The effect they have --  
18 that thing I see you mentioned, 10 acres. But they  
19 take that to the limit. They'll go on to a slough  
20 where it's narrow and each little pond in the middle is  
21 not 10 acres, but they'll clearcut both sides of it and  
22 all the aquatic life and the ecosystems is upset  
23 because once you cut -- clearcut to the edge of the  
24 swamps they dry up. The vegetation is exposed to the  
25 sun. Everything's all upset on it.

1 MR. FREIDIN: Q. Now, Mr. Michon, I want  
2 to ask you about your impact number 5.

3 Well, before I do that, item number 3,  
4 Mr. MacGuire. You indicated that in addition to that  
5 there, being an area clearcut near Crooked Green Lake,  
6 there was also a burn?

7 MR. MacGUIRE: A. Yes.

8 Q. Back in the '50's.

9 My understanding is that there was a  
10 fairly large wild fire.

11 A. Yeah, there was. It burned for  
12 months.

13 Q. The wild fire was considerably larger  
14 than the clearcut I think?

15 A. Yeah. Right.

16 Q. And both the clearcut and the wild  
17 fire would have had an effect on the habitat for the  
18 wildlife in that area?

19 A. Right.

20 Q. So it would be difficult to attribute  
21 any decline to one or the other? It's probably both if  
22 not -- right?

23 A. Right.

24 Q. Probably the fire more so?

25 A. Probably.

1 Q. In item number 5, Mr. Michon, the cut  
2 around Foam Lake -- now you say that that cut and the  
3 one around Dempster Lake caused a decline in moose  
4 population resulting in scarcity.

5 You refer to that as clearcutting and you  
6 were asked about whether in fact it was strip cutting  
7 by Mr. Cassidy.

8 I want to show you a map which is a map  
9 which has on it the cutover which occurred near Foam  
10 Lake during the years 1978 to '85. In fact that's the  
11 cutting that I am advised took place there.

12 Now I don't know whether you can see it  
13 from there, Mr. Michon, or whether -- if you want you  
14 can come up here.

15 Foam Lake is right over here in the top  
16 left-hand corner and all the cutting which has taken  
17 place in this area. I'm advised the configuration  
18 shown for the cuts all through that area indicate that  
19 the area was almost completely strip cut and can you  
20 confirm for me whether my information is accurate or  
21 not?

22 A. This strip was cut out, that strip  
23 was cut out, that strip was cut out and that strip was  
24 cut out leaving big clear open areas because I picked  
25 blueberries in that area.

1 Q. When you say this strip was cut out.  
2 This shows that there's a strip cut out and then  
3 there's a space left and there's a strip cut and a  
4 space left.

5 A. Well in some cases.

6 MR. MICHON: A. In a sense.

7 Q. All right. In some cases.

8 Come to the map. Because it seems to me  
9 that's what happened in the vast majority of this area.  
10 That it was cut in strips, which means you cut an area  
11 you would leave an area, you would cut an area and you  
12 would leave an area.

13 Now you go back eventually and you'd cut  
14 the areas that you left. But I'm saying that's the  
15 method that was used here and you're telling me that  
16 you were concerned about moose disappearing.

17 MR. MacGUIRE: A. Well, I can take you  
18 into the area, sir, and I can show you areas that's  
19 miles long and half a mile wide that's just cut.  
20 There's nothing. Just on the edges of the mountains  
21 where they can't get the trees or some of the lakes if  
22 their too rocky they can't get the trees.

23 Q. Mr. MacGuire, can you come up here  
24 for a minute?

25 A. I can take you into that area because



1 I've picked berries.

2 I'm not going to come up here and say,  
3 okay this is it or this is it or that. I can take you  
4 into the whole area.

5 MADAM CHAIR: Mr. Freidin, for the Board,  
6 is the purple color a photographic overlay?

7 MR. FREIDIN: My understanding is that  
8 the purple area are the areas that have been cut.

9 MR. MICHON: All this area through the  
10 central lake is --

11 MR. CASSIDY: We're looking at a map in  
12 the distance.

13 MADAM CHAIR: This map makes no sense to  
14 the Board right now.

15 MR. FREIDIN: It will be when I file it  
16 in reply.

17 MADAM CHAIR: All the Board wants to  
18 know, as we sit we can indeed see things that look like  
19 strip cuts. There are white areas and there are  
20 colored areas.

21 It looks to be as though it had a  
22 photographic impression as opposed to a hand drawing.

23 MR. FREIDIN: Oh, I don't know how it was  
24 made. I have no idea how it was made. But all right,  
25 I'll have to establish the --

1 MR. MARTEL: Is this Merrick's cuts?  
2 Were these part of Mr. Merrick's cuts?

3 MR. FREIDIN: I don't know whether these  
4 were Mr. Merrick's cuts, but to falsify information --

5 Q. This is the area, Mr. Michon, are you  
6 talking about where the moose disappeared?

7 MR. MICHON: A. Yes, Pat and I were  
8 there.

9 Q. All right.

10 A. I never said they disappeared, I said  
11 declined.

12 MR. MacGUIRE: A. Declined.

13 Q. Populations resulting in scarcity, is  
14 what you said.

15 A. They're not the same.

16 MR. MARTEL: Well, it says, causing a  
17 decline in moose populations resulting in a scarcity.

18 MR. FREIDIN: Q. It's also my  
19 understanding - and, again, one of you may have enough  
20 experience in forestry as such - but it's my  
21 understanding that this is in areas of the Domtar FMA  
22 and that the --

23 MR. MacGUIRE: A. That's the 81 cut  
24 area, yeah, I'm familiar with it.

25 Q. The practice that they engage in here

1 of strip cutting was on an area which could be  
2 described as an upland thin soiled black spruce area.  
3 Can you confirm the accuracy of that comment?

4 A. Well, there's lots of blow sand  
5 in there and there's lot -- no, I can't confirm that  
6 because in that area, that particular area the  
7 blueberries grow so big and so nice and they're just  
8 beautiful, and that's one of the areas that I went and  
9 checked to see if Domtar -- or the Ministry was going  
10 to spray and they assured me they weren't going to  
11 spray it, so I didn't -- I left it alone.

12 Q. Okay.

13 MR. FREIDIN: Could that be marked as the  
14 next exhibit, Madam Chair.

15 MADAM CHAIR: This map?

16 MR. FREIDIN: Yes.

17 MADAM CHAIR: Okay. And, Mr. Freidin,  
18 could you please provide in writing to the Board some  
19 idea how the map was done because we're confused about  
20 the purple marking on it.

21 MR. FREIDIN: Well, we'll leave that.  
22 I'm going to have to deal with this in reply, written  
23 reply.

24 MADAM CHAIR: All right. Just show up at  
25 some point with a description of what this is. It will

1 be Exhibit 1932.

2 MR. FREIDIN: 1932. Why don't we just  
3 call it map depicting cuts in area of Foam Lake.

4 ---EXHIBIT NO. 1932: Map depicting cuts in area of  
5 Foam Lake.

6 MR. FREIDIN: Q. Mr. Michon, in relation  
7 to Item No. 6, this area which was strip cut, again, it  
8 is my information that this area is on the Lake Nipigon  
9 Forest.

10 MR. MICHON: A. Mm-hmm.

11 Q. Which, again, is Domtar.

12 A. I would imagine so, yes.

13 Q. And it's also my information that the  
14 area in question which was strip cut was, again, an  
15 upland black spruce area.

16 A. We didn't check -- we didn't take any  
17 pine out of there; did we?

18 MR. MacGUIRE: A. They were taking lots  
19 of pine also. There's pine out of there, there's big  
20 sand dunes, there's everything.

21 Q. Okay.

22 A. I can't say there's just a little bit  
23 of earth, there's lots of earth there.

24 Q. All right.

25 A. I lived in that area two months last

1 year, the Weatherall Lake area is only four or five  
2 miles from there, with my whole family.

3 Q. Okay.

4 MR. FREIDIN: If I can just have one  
5 moment, Madam Chair.

6 Q. Now, Mr. Michon, in Item No. 7,  
7 impact 7, you talk about wildlife populations being  
8 wiped out, you talk about -- 8, wildlife populations  
9 being eradicated.

10 First of all, are those your words?

11 MR. MICHON: A. Not in that sense.

12 Q. Are you telling me that somebody  
13 inserted them in there for effect?

14 A. I would imagine so.

15 Q. Were those words in the witness  
16 statement that you saw -- did you see these words  
17 before they were put in here and presented to the  
18 Board?

19 A. No.

20 Q. And I take it from your evidence that  
21 that language -- you would agree with me that that  
22 language is a bit strong in the fact that although  
23 wildlife may decline in the cut-over area, it certainly  
24 is not wiped out; would you agree with that?

25 MADAM CHAIR: Mr. Freidin --



1 MR. MICHON: I agree with you.

2 MADAM CHAIR: Excuse me. Where are you,  
3 Mr. Freidin?

4 MR. FREIDIN: I'm on page 16, impact No.  
5 7.

6 MADAM CHAIR: No, 7. All right.

7 MR. FREIDIN: And No. 8. The second line  
8 says the wildlife was wiped out and then it says it was  
9 eradicated.

10 Q. Do you agree?

11 MR. MICHON: A. I agree with you.

12 Q. Now, I had some questions for Mr.  
13 Nenakanogis and I don't have to ask those.

14 Gentlemen, I'm going to show you a copy  
15 of a letter dated December the 29th, 1988, it's a  
16 letter from Mr. Art Currie the District Manager in  
17 Nipigon District, it's basically addressed to the  
18 attention: trappers, and I'm just wondering whether any  
19 of you recall seeing this document?

20 Now, if you're not trappers you may not  
21 have received this, but do any of you recall receiving  
22 this document? (Handed)

23 A. No.

24 Q. Do you want to take a minute and read  
25 it and when you've read it, just tell me. All right?

1 A. (Nodding affirmatively)

2 Q. I'm just wondering, is the kind of  
3 information requested here, assuming it is acted upon,  
4 that it's taken into account when making management  
5 decisions, do you think that is a useful process that  
6 Mr. Currie engaged in in trying to get this kind of  
7 information from trappers?

8 A. Definitely.

9 Q. Thank you.

10 MR. FREIDIN: Can that be marked as the  
11 next exhibit.

12 MADAM CHAIR: Yes, Mr. Freidin. That  
13 will be Exhibit 1933.

14 ---EXHIBIT NO. 1933: Letter dated December 29, 1988  
15 from Art Currie, MNR District  
Manager, Nipigon District.

16 MADAM CHAIR: Mr. Freidin, for the  
17 Board's information, was this letter sent out to  
18 everyone holding a trapping licence?

19 MR. FREIDIN: Yes, that's my information.

20 MR. MacGUIRE: Everyone concerned in just  
21 the immediate area only, eh? Is it the names that are  
22 scribbled on -- these names, that's where they were  
23 sent to?

24 MR. FREIDIN: No. My information, Madam  
25 Chair, and for your benefit, Mr. MacGuire, the names

1 here on the bottom right-hand corner of this letter are  
2 the names of the trappers who responded to this notice.

3 MR. IRWIN: It says to respond.

4 MR. FREIDIN: Right. We do have  
5 responses from them.

6 Q. Now, Mr. Nenakanogis -- oh, Mr  
7 MacGuire, that's your statement -- oh no, I'm sorry.  
8 Mr. Nenakanogis is the one who killed 13 moose at one  
9 location. I know he's not here, but do any of you know  
10 anything about whether those 13 moose were killed in  
11 the same year at that location?

12 MR. MacGUIRE: A. You'd have to ask him.

13 Q. Do any of you know whether in fact  
14 that statement may be -- well, I guess you don't know,  
15 it's not your evidence.

16 A. I don't know.

17 Q. Mr. Nenakanogis at page 19 did refer  
18 to a particular area on a proposed tender sale cut  
19 approval map, you see that on page 19 just before his  
20 evidence concludes. Are you able to tell me, Mr.  
21 Michon, whether that is an area that you have an  
22 interest in cutting?

23 MR. MICHON: A. That's correct.

24 Q. And I want to show you a copy of a  
25 map. Can you tell me, is this a copy of the area that

1       you've indicated that you have an interest in cutting?

2                   A.   Had an interest in cutting.

3                   Q.   Had an interest in cutting.

4                   A.   Yes.

5                   Q.   In which area, was it one or both the  
6       areas that are outlined?

7                   A.   Both areas.

8                   Q.   Both areas.   Okay.

9                   MR. FREIDIN:  I'm just going to confer  
10       with my colleague here to see whether we have to file  
11       this.  Unless the Board wants me to, I'm not going to  
12       propose that we file that.

13                   And with that, Madam Chair, I have no  
14       further questions.

15                   MADAM CHAIR:  Thank you, Mr. Freidin.

16                   Mr. Irwin, did you wish to conduct a  
17       re-examination of these witnesses?

18                   MR. IRWIN:  I have some short  
19       re-examination.  Perhaps Mr. Freidin could provide with  
20       the responses; does he have them there, to the letter  
21       of December 29th, 1988?

22                   MR. FREIDIN:  Well, I can do it.  I  
23       haven't got them assembled here now, but I didn't think  
24       it was -- I'll undertake to provide the information to  
25       him.

1                   It's a little unusual, I think, to be  
2     providing more evidence on re-examination.

3                   MR. IRWIN: Well, it's not irrelevant.  
4     He raised the issue of this letter which says that  
5     there were responses, I think the responses, especially  
6     when we're looking at timber management, are very  
7     relevant to exactly what we're doing here.

8                   MR. FREIDIN: I have no problem.

9                   MADAM CHAIR: Thank you, Mr. Freidin.

10                  MR. IRWIN: Is there an undertaking to  
11     file the responses?

12                  MADAM CHAIR: Yes there is, Mr. Irwin.

13                  MR. IRWIN: Thank you.

14     RE-DIRECT EXAMINATION BY MR. IRWIN:

15                  Q. Now, Mr. Michon, all you gentlemen,  
16     you've heard some cross-examinations, and you've seen  
17     some maps, is there anything that you said in  
18     cross-examination that would lead you to change your  
19     decision when you looked at the original maps -- or  
20     reconsider the original maps, six or seven of them --  
21     eight of them, as a matter of fact - counting the  
22     blueberry and the eight areas that you point out, Mr.  
23     Michon - that these maps might not be your traditional  
24     area?

25                  MR. MICHON: A. No, not at all.



1 Q. Have you ceded, to your knowledge,  
2 your families, your greater family, 350, your alleged  
3 aboriginal claim to this area; have you ceded it, given  
4 it up?

5 MR. MacGUIRE: A. No.

6 MR. MICHON: A. No, never.

7 Q. Okay. Today you've heard just in  
8 cross-examination -- or you were told when you  
9 brought -- you were having trouble with your game that  
10 it might acid rain. Today in cross-examination you  
11 were told that it was really cadmium, it wasn't the  
12 spraying, it might have been cadmium, but if you looked  
13 at -- no, they don't know how it got there.

14 You've been told in your  
15 cross-examination by MNR that if there was spraying it  
16 was very little. On your cross-examination you were  
17 virtually told by way of leading in  
18 cross-examination --

19 MR. FREIDIN: Well, I wish you wouldn't  
20 mischaracterize what my suggestions were, Mr. Irwin.

21 MR. IRWIN: Let me finish.

22 MR. FREIDIN: Just ask them questions  
23 about the --

24 MR. IRWIN: Q. If it was to a lake, it  
25 wasn't to the edge of the lake. In the

1 cross-examination by my friend that if it was to the  
2 alleged lake it was to a lake that wasn't that  
3 important, had no fish or game.

4 MR. FREIDIN: I didn't say that at all  
5 and I never suggested it for a second.

6 MR. IRWIN: Q. And you were shown a map  
7 that no one can read, and in cross-examination  
8 suggested to you that these clearcuts didn't really  
9 occur, even though you've been there for two months  
10 with your family in one spot.

11 Now, do you want MNR to do independent  
12 appraisals of your concerns?

13 MR. FREIDIN: I object. Madam Chair,  
14 that wasn't raised in the cross-examination, it wasn't  
15 raised in direct evidence-in-chief.

16 MR. IRWIN: Q. Do you want MNR to do  
17 independent appraisals.

18 MR. FREIDIN: I'm going to have to start  
19 asking for leave to cross-examine again.

20 MR. IRWIN: Q. My question is: Do you  
21 want MNR --

22 MR. FREIDIN: Wait a minute, please, Mr.  
23 Irwin. I would like a ruling, Madam Chair.

24 MADAM CHAIR: What's your objection?

25 MR. FREIDIN: The purpose of

1 re-examination is to ask questions of clarification in  
2 relation to matters which were raised for the first  
3 time during cross-examination.

4 I never asked anything about monitoring  
5 or whatever he's raising now, it's absolutely improper  
6 re-examination. The reason for the role - we've gone  
7 through this before - I didn't raise it all, he didn't  
8 even raise it in his evidence-in-chief, now he's  
9 raising a new matter.

10 The introduction of evidence would  
11 suggest then that I would have another opportunity to  
12 cross-examine.

13 MR. IRWIN: There was quite a few things  
14 raised by the Chair. Madam Chair, you suggested - you  
15 didn't suggest - by way of assisting these witnesses,  
16 you suggested that certain things be brought to the  
17 attention of the MNR and they would report back.

18 I'm looking -- my question is now: Do  
19 you want or do you feel comfortable, is it desirable to  
20 you to have MNR do independent appraisals of your  
21 concerns. I think that's pretty --

22 MADAM CHAIR: Well, the Board doesn't  
23 have a problem with the question, the question the  
24 Board has seen raised on page 22 of report No. 2 with  
25 respect to MNR conducting research.

1                   Now, that's an entirely different  
2 question that what you have said Mr. Freidin has  
3 suggested by way of - you have given the Board your own  
4 views of what we're to take from what Mr. Freidin has  
5 said and we certainly don't accept the suggestions  
6 you've made as to what Mr. Freidin has asked or the  
7 witnesses have addressed.

8                   The Board has no problem with you saying,  
9 do you trust MNR, on the basis of everything you know,  
10 not just the last three minutes of cross-examination.  
11 We have no problem with exploring the relationship of  
12 trust and their sense of the competence of MNR, that's  
13 a wide open question you can ask them any way you want,  
14 but I don't know how the Board could defend that  
15 question with respect to Mr. Freidin's  
16 cross-examination and what you take from it.

17                   MR. IRWIN: Q. Do you trust MNR?

18                   MR. MacGUIRE: A. No, I don't trust MNR.

19                   MR. FREIDIN: Does that mean they don't  
20 want the undertaking to be complied with?

21                   MR. MARTEL: We asked for the  
22 undertaking.

23                   MR. MacGUIRE: Well, you know what I  
24 would like say --

25                   MR. FREIDIN: Well, if they don't trust

1 answer, what am I doing it for?

2 MADAM CHAIR: One minute.

3 Now, on a separate matter of whether you  
4 want to see from MNR something with respect to what  
5 they know with respect to scientific information, do  
6 they have some scientific answers with respect to the  
7 various conditions of moose that you referred to.

8 Now, we've done this before at hearings  
9 where people have said: Yes, I have various concerns  
10 about how MNR operates, but with respect to their  
11 request for certain pieces of information, they've  
12 wanted that.

13 I don't want to hoist on you any sort of  
14 information you don't want. If you don't know what  
15 explanations MNR has with respect to cysts or  
16 underweight moose or whatever --

17 MR. MacGUIRE: I would like just one  
18 thing. It doesn't relate to moose, however, it's  
19 affecting moose. I put a little red dot on that map  
20 and that's right on the John Hall Road, and it's hard  
21 for anybody to drive by it.

22 I would like the MNR to make a report and  
23 drive from Nipigon down the Rossport Highway, go up to  
24 camp 81 Road and up to that place that I put that  
25 little red dot, I want them to count the lakes that are



1 clearcut to the edge of the lake, and there should be,  
2 oh, four or five good size lakes that they cut.

3 MADAM CHAIR: Okay. I mean, that's  
4 another matter. Now, let's just go back for a minute.

5 The Board has asked, because it thought  
6 you might be interest, in what MNR knew about problems  
7 with moose. If you're not interested in that, then we  
8 will tell MNR, don't go to all the trouble of getting  
9 that information.

10 MR. MICHON: Oh, we are definitely  
11 interested in it. Of course.

12 MADAM CHAIR: Okay.

13 All right, Mr. Freidin.

14 MR. FREIDIN: Sure. Okay the undertaking  
15 is still there.

16 MADAM CHAIR: Thank you.

17 Now on another matter you're saying --  
18 and before we get -- on the other matter you're saying  
19 that there are clear cuts to the edge of lakes.

20 The Board doesn't need MNR to verify  
21 that. You have told us that you know that a series of  
22 lakes in the area that you have just described on the  
23 record are clearcut to the edge. The Board accepts  
24 that information. Did you want MNR to go because you  
25 think --

1 MR. MacGUIRE: No.

2 MADAM CHAIR: No, well we accept what  
3 you're saying.

4 MR. MacGUIRE: Okay.

5 MADAM CHAIR: There's no problem with  
6 that. We don't need MNR to go out and verify that.

7 MR. MacGUIRE: Okay.

8 MADAM CHAIR: And on the matter of -- and  
9 that's it. Was there anything else left outstanding  
10 from Mr. Irwin's questions?

11 MR. IRWIN: No. Thank you, Madam Chair.

12 It's been very enjoyable. I've enjoyed  
13 the last three days. I don't know if I can do it for  
14 three years, but three days has been fine.

15 MR. MacGUIRE: There's maybe just one  
16 more thing. We'd like a transcript of the hearing if  
17 that's possible.

18 MR. IRWIN: I've already asked -- I left  
19 my card. That's been taken care of.

20 MADAM CHAIR: That's just fine.  
21 Certainly.

22 Now the transcript of your evidence for  
23 the last three days you would like?

24 MR. MacGUIRE: Yes.

25 MADAM CHAIR: Well, that's the end of

1 your evidence and we're very -- we thank you very much  
2 for coming and appearing before us. Thank you.

3 And before we leave today we had  
4 something else to put into evidence. This has nothing  
5 to do with OMAA's case.

6 There is some information that was  
7 received from the Canadian Paper Workers Union and it's  
8 a follow-up to the evidence of Mr. Warren Mazurski and  
9 Mr. Bob Lavallee in Thunder Bay on August the 20th and  
10 they have given us their written witness statements  
11 which were not completed at that time and we'll give  
12 this Exhibit No. 1934.

13 MR. FREIDIN: Which one? Mazurski or --  
14 are they the same or are they different?

15 MADAM CHAIR: Why don't we put them  
16 together. Exhibit 1934(a) will be Mr. Mazurski's and  
17 1934(b) will be Mr. Lavallee's.

18 ---EXHIBIT NO. 1934(a): Warren Mazurksi's written  
19 witness statement.

20 ---EXHIBIT NO. 1934(b): Bob Lavallee's written  
21 witness statement.

22 MADAM CHAIR: Thank you very much.

23 The hearing will adjourn now and we  
24 will - excuse me for a minute - we will continue  
25 hearing evidence and we will be hearing from NAAN  
beginning in Sioux Lookout on September 24th.

1 MR. PASCOE: The 25th. The 24th is the  
2 community hearing.

3 MR. MARTEL: Well Mr. Freidin is going to  
4 be there.

5 MADAM CHAIR: And we also think that we  
6 will be hearing on September 23rd from the Ontario  
7 Federation of Anglers and Hunters in Toronto, and has  
8 that been scheduled, Mr. Pascoe?

9 MR. PASCOE: That's been scheduled for  
10 one o'clock in hearing room 2.

11 I heard from Mr. Quinney. He's confirmed  
12 that Mr. Morgan will be in attendance. He's attempting  
13 to get back to us by the end of today to hear from Mr.  
14 Gracen.

15 MADAM CHAIR: And did the parties receive  
16 Mr. Hanna's fax of Tuesday this week?

17 MR. PASCOE: Of September 10th.

18 MADAM CHAIR: Of September 10th.

19 MR. FREIDIN: I learned of the contents  
20 of that through other means.

21 Is my information correct that OFIH and  
22 NOTO Coalition have decided to put in a case and the  
23 purpose of the September 23d session is to discuss the  
24 particulars or the scheduling?

25 MADAM CHAIR: The particulars and the

1 scheduling of their case, yes.

2 MR. FREIDIN: Thank you.

3

4

5 ---Whereupon the hearing was adjourned at one o'clock  
6 p.m., to be reconvened on Monday, September 23rd,  
7 1991 in Toronto.

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